

City Of Rushville



Revised
03-01-09

Zoning Ordinance

**Zoning Ordinance
Rushville, Indiana**

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SECTION 6-101-1. GENERAL PROVISIONS

- A. Title
 - B. Purpose
 - C. Compliance
 - D. Severability
 - E. Jurisdiction
 - F. Effective Date
-

A. TITLE

This Ordinance shall be known and may be cited as the Zoning Ordinance of The City of Rushville, Indiana.

B. PURPOSE

An Ordinance establishing comprehensive zoning regulations for Rushville, Indiana and providing for the administration, enforcement and amendment thereof, in accordance with the provisions set forth by the General Assembly of Indiana.

C. COMPLIANCE

No structure shall be located, erected, constructed, reconstructed, moved, converted or enlarged; nor shall any structure or land be used or designed to be used, except in full compliance with all provisions of this Zoning Ordinance and after lawful issuance of permits required by this Zoning Ordinance.

D. SEVERABILITY

If any provision of this Ordinance or application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.

E. JURISDICTION

The Zoning Ordinance shall apply to all incorporated areas within the limits of the City of Rushville.

F. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law. Adopted this XXth day of XXXX, 200X by the Common Council of the City of Rushville.

Robert M. Bridges, Mayor

Michael Pavey, President

John Byrne, Council

Darrin McGowan, Council

Brian Sheehan, Council

Christopher Fields, Council

Attest:

Ann L. Copley, Clerk-Treasurer

Section 6-101-2. ADMINISTRATION

- A. Permits
 - B. Notification of Requirements
-

A. Permits

1. Improvement Location Permit

An Improvement Location Permit is required for all proposed construction or other development, including the placement of manufactured homes or the disturbance of more than one (1) acre of ground. Additionally, an Improvement Location Permit shall be obtained before any structure may be constructed, reconstructed, moved, enlarged, or structurally altered. If an Improvement Location Permit is issued, the applicant shall apply for an Occupancy Permit, which shall not be issued until the structure is complete and compliance with this Ordinance is in evidence, including the installation of permanent corner markers as indicated in the Subdivision Control Ordinance. An Improvement Location Permit shall be obtained for any of the following items, none of which may be included in only one permit; separate permits being required for each construction or alteration:

- a. Construction, reconstruction, moving, enlarging, or structurally altering any structure in excess of two-hundred (200) square feet, or any structure placed on a permanent foundation, including signs.
- b. Connecting to the storm or street drainage system;
- c. Locating a mobile home; or
- d. Making any significant alterations to features such as, but not limited to, reservoirs, lakes, swimming pools, ponds, roadside ditches, or sand or gravel excavations.

In reviewing applications for Improvement Location Permits for compliance with the requirements of this Ordinance, the building inspector shall ensure that all necessary permits from other State, Federal, and local agencies have been obtained.

2. Flood Hazard Determination

- a. The Building Inspector shall review all applications for Improvement Location Permits for new construction, additions to existing construction, or other development to ascertain whether the proposed construction, addition, or

development lies in a flood hazard area s set out in the Rush County Ordinance for Flood Hazard Areas, Ordinance #2001-3.

- i. If the construction lies in an identified floodway, the applicant shall forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources to apply for a permit for construction in a floodway.
 - ii. If the construction lies in a floodway fringe, the building inspector may issue a local building permit with the condition that the lowest floor, including the basement of the structure(s), is a least two(2) feet above the one hundred year flood elevation.
- b. Manufactured homes to be placed in manufactured home parks or subdivisions are required to be elevated to the recommended flood protection grade of that district and be properly anchored in accordance with the requirements of this Ordinance.

3. No Permit Required

No Improvement Location Permit shall be required for:

- a. Routine maintenance, repair or remodeling of existing structures not involving any change of use, additional lot coverage, or increase in structure size;
- b. Lot an yard improvements such as fences, drives, sidewalks, patios, retaining walls, play equipment and landscaping;
- c. Structures less than two-hundred(200) square feet in area and not on a permanent foundation.

B. Notification Requirements

The following notification requirements are for all public hearings involving property within the city limits. If a conflict exists between this ordinance and state or county ordinance, the more restrictive ordinance will prevail.

1. Newspaper Notification

At least ten (10) days prior to the date set for such hearing, public notice advising the location and nature of the subject petitioned, time, date and place thereof, shall be given by publication in a newspaper of general, daily circulation in Rushville. Notice must also be given as set forth in the "Rules of Procedure" of the Plan Commission. The applicant shall be responsible for preparing a legal notice of the public hearing on a form provided by the Commission and shall assume the cost of said notice and submit proof of its publication at the hearing. Said legal notice shall specifically refer to the commonly known street address of the parcel, if previously assigned.

2. Mailed Notices

The applicant shall also serve notice to property owners within two hundred(200) feet of the affected area, or two(2) property owners, whichever is greater, with a U.S.P.S. Certificate of Mailing, in a form provided by the Commission, not less than ten(10) days prior to the date set for such meeting, advising the location and nature of the subject appealed or petitioned, and the date, place and time of the hearing, or have notice served as specified in its "Rules of Procedure." The applicant shall provide the Commission with a complete list of the above mentioned owners, together with their last known addresses, from the County Auditor's office, along with proof of notice served, and shall assume the cost of said notice. The applicant shall certify, by notary public, that notification of surrounding property owners has been accomplished as required.

3. Posting of Notice on Parcel

The applicant shall also post, in a conspicuous place on the subject property, a notice provided by the Area Plan Commission explaining the action being sought.

Section 6-101-3. DEFINITIONS

A. Word Interpretations

B. Definitions

A. WORD INTERPRETATIONS

For purposes of this Ordinance, the following terms shall have the meaning indicated below:

1. Present tense shall also include the future tense.
2. A singular number shall include plural and plural shall include singular.
3. The word “shall” is mandatory; the word “may” is permissive.
4. The word “used” includes “designated” or “intended to be used.”

B. DEFINITIONS

Certain words used in this Ordinance are defined below. Any words not defined as follows shall be construed in their generally accepted meanings.

ACCESSORY APARTMENT: A subordinate dwelling, attached to the primary dwelling, that is designed and used specifically as a subordinate use to the primary dwelling unit on a residentially zoned lot. Such a use may be occupied only by a member of the extended family of the occupants of the primary dwelling, or by a bona fide servant; be of an area no greater than thirty percent(30%) of the gross area of the primary residence; be equipped with separate sleeping, bathroom, and kitchen facilities; and include an additional parking space in addition to those required by the primary residence.

ACCESSORY USE OR STRUCTURE: A structure which (1) is subordinate to and serves a principal building or use; (2) is subordinate in area, extent or purpose to the principal building to be served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building or use served; and (4) is located on the same lot with the building or use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere.

ADULT ENTERTAINMENT FACILITY: A facility having a significant portion of its function as adult entertainment which includes the specific types of uses identified below:

ADULT BOOKSTORE: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to “specified sexual activities”

“or specified anatomical areas,” as herein defined, or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT BUSINESS: Any establishment involved in the sale of services or products characterized by the exposure or presentation of “specified sexual activities,” “specified anatomical areas” or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

ADULT MINI-MOTION PICTURE THEATER: A facility with a capacity for less than (50) fifty persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patron therein.

ADULT MOTIN PICTURE THEATER: A facility with a capacity of fifty(5) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patrons therein.

ADULT PARAPHERNALLA STORE: An establishment having as a substantial or significant portion of its stock in trade, mechanical and/or non-mechanical devices which are distinguished or characterized by their intended use for sexual arousal and/or massage of “specified anatomical areas,” as herein defined, or an establishment with a segment or section devoted to the sale or display of such devices.

MASSAGE ESTABLISHMENT: Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Indiana, nor barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder.

MASSAGE: A method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.

SPECIFIED SEXUAL ACTIVITIES: Human genitals in a state of sexual stimulation or arousal; acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio; and fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

SPECIFIED ANATOMICAL AREAS: Less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately

above the top of the areola; and human male genitals in a discernibly turgid state even if completely and opaquely covered.

AIR POLLUTION: Presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to property, or which unreasonably interfere with the comfortable enjoyment of life and property.

ALLEY: A platted, public right-of-way which normally affords a secondary means of access to abutting property.

ALTERATION: Any change, addition, or modification in construction. Any change in the structural members of a structure, such as load-bearing walls, columns, beams, or girders.

AMATEUR RADIO SUPPORT STRUCTURES: Poles, master towers and antennas used in the operation of amateur radios licensed by the Federal Communication Commission.

APPLICANT: A landowner or developer, as hereinafter defined, who has filed an application for development, including their heirs, successors, and assigns.

APPROVED: Acceptable to the appropriate authority having jurisdiction, by reason of investigation, accepted principles, or tests by nationally recognized organizations.

ASSISTED LIVING CENTER: An institution which provides for lease or purchase of apartments or condominiums as dwellings for individuals, who because of physical or mental limitations, cannot function independently and/or maintain a household without assistance. Such an institution may provide meals, medical and rehabilitation services, and other services to residents.

BANNER: A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

BED AND BREAKFAST HOME: An owner-occupied dwelling, or portion thereof, that contains guest rooms where short-term lodging, with or without food, is provided for compensation.

BLOCK: A unit of land bounded by streets or by a combination of streets and public land, cemeteries, railroad rights-of-way, waterways, boundary lines of municipalities or any other barrier to the continuity of development.

BOARDING HOUSE: A building, not available to transients, in which meals are regularly provided for compensation for at least three but not more than thirty persons.

BUILDING: Any structure having a roof supported by columns or walls, and designed, built, and used for the shelter, protection, or enclosure of persons, animals, or property, and

having an ascertainable stationary location on or in land or water, whether or not affixed to the land. A building is also a structure.

BUILDING FRONT: The side(s) of a building that parallels and is visible from the right-of-way of any or all Corridor Streets, as hereinafter defined.

BUILDING HEIGHT: The vertical distance measured from the average grade level to the highest point of a building or structure, excluding chimneys, smokestacks, stage towers, spires, bell towers, water towers, ornamental towers, conveyors, or flag poles. Where the finished grade of a structure is not uniform, the average of all sides of a building or structure shall be used to determine the building height.

BUILDING LINE: The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

CERTIFICATE OF OCCUPANCY: See "Occupancy Permit."

CHILD CARE: A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

CHILD CARE CENTER: A facility licensed by the State of Indiana where at least seventeen(17) children receive child care from a provider while unattended by a parent, legal guardian, or custodian for regular compensation for more than four(4) hours but less than twenty-four(24) hours in each of ten(10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

CHILD CARE HOME: A residential structure licensed by the State of Indiana in which at least six(6) children (not including the children for whom the provider is a parent, stepparent, guardian, or other relative) at any time receive child care from a provider while unattended by a parent, legal guardian, or guardian; for regular compensation; and for more than four(4) hours but less than twenty-four(24) hours in each of ten(10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

CLINIC: Any establishment where human patients are examined and treated by a doctor or dentist, but not hospitalized overnight.

COMMON OPEN SPACE: A parcel(s) of land designed or intended for the use or enjoyment of residents of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriated for the benefit and enjoyment of occupants. Street rights-of-way, driveways and parking lots which directly serve dwellings or commercial buildings shall not be counted toward area requirements of common open space. Those structures directly serving recreational areas may be counted toward common open space area requirements, at the discretion of the Plan Director.

COMMUNICATIONS ANTENNA: Any structure designed for transmitting or receiving radio, television, or telephone communications, including omni-directional or whip antennae, directional or panel antennae, and microwave dish antennae, which may be mounted on an existing building or on a communications tower, and including the accessory equipment cabinet necessary to operate the antennae.

COMMUNICATIONS FACILITY: Any communications antenna or communications tower, as defined by this Ordinance, which is operated by any agency or corporation, including a public utility regulated by the Indiana Regulatory Commission or any agency or franchise of Rushville, or any police, fire, emergency medical or emergency management agency, but not including satellite dish antennae, defined as parabolic dishes designed for “receive-only” viewing of satellite programs for private viewing, or radio and TV antennae, defined as freestanding or building-mounted antennae located on residential property designed to enhance radio or television reception for the residents of the dwelling.

COMMUNICATIONS TOWER: Any structure, whether freestanding or attached to a building, designed to support multiple communications antennae, including monopole, self-supporting, and guyed towers, and one or more of the following mounts for antennae: rotatable platform, fixed platform, multipoint, side arm and pipe mounts for microwave dishes.

COMPREHENSIVE PLAN: The Comprehensive Plan of Rushville, Indiana including all amendments adopted by the City Council of Rushville.

CONFINED FEEDING LOT: An area within which the confined feeding of animals for food, fur, or pleasure purposes takes place in lots, pens, ponds, sheds or buildings where all food is supplied by means other than grazing (IC 13-18-10).

CONFINED FEEDING OPERATION: Shall mean (1) any confined feeding of three hundred (300) or more cattle, six hundred (600) or more swine or sheep, or thirty thousand (30,000) or more fowl;

Or (2) any animal feeding operation utilizing a waste lagoon or holding pit; or (3) any animal feeding operation where the operator elects to come under the Act of 1943, or amendments thereto; or (4) any animal feeding operation that is causing violation of Chapter 214 of the Act of 1943, or amendments thereto, as determined by the State office of jurisdiction.

CONTRACTOR’S OFFICE: Any building or structure used as the permanent place of business for a general contractor or tradesman, but where the site does not include the outdoor storage of construction equipment, material, and company vehicles.

CONTRACTOR’S YARD: Any developed or vacant land used as a place of storage for a general contractor or tradesman, including the storage of construction equipment, material, and company vehicles.

CORRIDOR GREENBELT: That portion of the front yard of a lot that is immediately adjacent and parallel to the right-of-way of State Route 3, State Route 44 or U.S. Highway 52 and having a minimum depth of twenty (20) feet from the street right-of-way.

DAY CARE FACILITIES: See “Child Care Center,” and “Child Care Home.”

DEVELOPER: The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

DEVELOPMENT: Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISCARDING: To abandon, deposit, desert, discharge, dispose, drop, dump, eliminate, emit, jettison, leave, pitch, place, put, scrap, spill, throw, or toss any item, any solid waste or derivative thereof, or any inherently waste-like material in a manner such that the discarded substance remains upon the land as a solid waste.

DISTRICT: A zoning district as created and defined in the Zoning Ordinance of Rushville, Indiana.

DUMPING: The discarding or long-term storage of any items of solid waste commonly known as garbage, rubbish, refuse, construction, and demolition debris, household trash, appliances, diapers, food service wastes, tires, scrap metal, vehicle parts, implement parts, fence wire and all other items and material defined as “solid waste” and in IC 13-11-2-205.

DWELLING: A permanent building, or portion thereof, designed or used exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings, but not including hotels, motels, lodging houses, or mobile homes.

DWELLING UNIT: One(1) or more rooms which are arranged, designed or used as living quarters for one family.

DWELLING, MULTIPLE-FAMILY: A dwelling, or portion thereof, containing three(3) or more dwelling units, including condominiums.

DWELLING, SINGLE-FAMILY: A dwelling containing one (1) dwelling unit only.

DWELLING, TWO-FAMILY: A dwelling containing two (2) dwelling units only.

EASEMENT: An authorization or grant by a property owner to a specific person(s) or entity, or to the public to use land for specific purposes, where the ownership of such easement is retained by the granting party.

ENCLOSED MALL SHOPPING CENTER: A commercial real estate development comprised of department, retail and/or commercial stores, the majority of which stores have entrances facing upon a common enclosed mall. This definition shall not include free-standing buildings located at or about such enclosed mall shopping center.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, telephone, sewer, water transmission drains, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs and other similar equipment, for the furnishing of adequate services by such public utilities or municipal or other governmental agencies, but not including buildings. This definition is not intended to include private commercial enterprises such as cellular communications facilities, but only those public facilities necessary for the health, safety, and general welfare of the community. In addition, this definition shall not apply to sewage treatment plants or similar facilities.

EXCAVATION: Any act by which earth, sand, gravel, rock, mineral substances, or organic substances, other than vegetation, is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed, including the conditions resulting therefrom.

FAMILY: One (1) or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three (3) persons not so related, together with his/their domestic servant(s), maintaining a common household in a dwelling unit. A family may include not more than two (2) roomers, boarders or permanent guests, whether gratuitous or not.

FENCE: A structure partially or completely surrounding a part of, or the whole of, a lot which is intended to prevent intrusion from without and straying from within the area

Controlled, but not including a hedge or other natural growth.

FLOOD HAZARD AREAS: Any flood plain district, floodway, floodway fringe district, or any combination thereof which is subject to inundation by the regulatory flood.

FLOOD OR FLOODWATER: The water of any lake or watercourse which is above the banks and/or outside the channel and banks of such watercourse.

FLOOD PLAIN: The area adjoining the river or stream which has been or may hereafter be covered by floodwaters.

FLOOD PROFILE, REGULATORY: A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

FLOOD PROTECTION GRADE: The elevation of the lowest point in a building at which flood waters may enter the interior of the building. This lowest point is defined by the following:

1. the lowest floor of the building (if a basement is included, the basement floor is the lowest floor);
2. the garage floor if the garage is the lowest level of the building;
3. the first floor of a building elevated on pilings or constructed on a crawl space;
4. the floor level of any enclosure below an elevated building where the walls of the enclosure provide some resistance to the flow of flood waters;
 - a. unless the walls are designed to automatically equalize hydrostatic flood forces on the walls allowing entry and exit of floodwaters, through providing a minimum of two (2) openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above the enclosed floor area.
 - b. such enclosed space shall be usable for non-residential purposes and building access.
5. the level of protection provided to a non-residential building below which the building is designed to be water tight. The design and construction shall be certified by a professional engineer registered under IC 25-31 or an architect registered under IC 25-4, as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

FLOOD, REGULATORY: That flood having peak discharge which can be expected to be equaled or exceeded on the average of once in a one hundred (100) year period, as shown on the Flood Insurance Rate Maps (FIRM). This flood is equivalent to a flood having a probability of occurrence of one (1) percent in any given year.

FLOODWAY DISTRICT: That area designated as a "Commission Floodway" by the Indiana Department of Natural Resources (DNR).

FLOODWAY FRINGE DISTRICT: Those portions of flood hazard areas lying outside the floodway districts.

FLOOR AREA OF A BUILDING: For determining off-street parking and loading requirements, the sum of the gross horizontal areas of the floors of a building or portion thereof devoted to a specific use, including accessory storage areas located within selling space such as counters, racks or closets; and any basement floor areas devoted to retailing activities, the production or processing of goods, or to business or professional offices.

FRONTAGE: See “Lot Line, Front.”

FRONTLIKE FAÇADE: The exterior portion of a structure which is not the front, but gives the appearance of a frontlike façade by the materials used in construction, architectural style and details.

FOUNDATION, PERMANENT: In-ground support for exterior walls of structures, such support typically composed of wood, concrete, or masonry, designed to safely support imposed loads based on soil type, and generally extending below the frost line.

GARBAGE: All putrescible animal solid, vegetable solid, and semi-solid wastes from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

GRADE: The average level of the finished surface on the ground adjacent to the exterior walls of the building or structure.

GUEST ROOM: Referring only to bed and breakfast establishments, a sleeping room intended to serve no more than two (2) transient guests per night, such room not to contain cooking facilities.

HOME OCCUPATION: An occupation or activity conducted entirely within a principal dwelling which is clearly customary, incidental, and secondary to the use of the building for dwelling purposes, pursuant to this Ordinance.

HOT TUB: See “Swimming Pool.”

MANUFACTURING, HEAVY: The manufacturing storage, processing, assembly, fabrication, or repairing of any materials or products where processes involved therein may produce noise, vibration, electrical disturbance, air or water pollution, heat, glare, waste matter, outdoor storage of materials, odors, or other hazardous or commonly recognized offensive conditions.

MANUFACTURING, LIGHT: The manufacturing, storage, processing, fabrication, or repairing of certain materials or products where no process involved will produce noise, vibration, electrical disturbance, air or water pollution, heat, glare, waste matter, odor or fire hazard which will disturb or endanger any neighboring property, and where all operations shall be contained within an enclosed area.

INERT SOLID WASTE: Uncontaminated earth, rocks, concrete, bricks, tiles, aged asphalt, natural wood, brush, leaves, wood chips, or sawdust used or intended to be used as fill material within thirty (30) days of accumulation or deposit for that purpose.

INOPERABLE VEHICLE: Any vehicle, licensed or unlicensed, that is partially dismantled or not fully assembled.

INTERIOR PARKING: Those parking spaces located in the interior of a parking lot which create definable parking aisles away from the periphery or edge of the lot.

JUNK YARD: An open area where waste, scrap material or one (1) or more motor vehicles, or parts thereof, not in running or operable condition, and/or not bearing current license plates, are bought, sold, exchanged, stored, baled, packed, disassembled or handled, but excluding uses established entirely within closed buildings, and further excluding outside storage permitted as an accessory use to any lawfully established automobile sales, service or repair facility.

KENNEL: Any premises, or portion thereof, on which more than four (4) dogs, cats or other household domestic animals over (4) months of age are kept or on which more than (2) such animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

LONG-TERM STORAGE: The maintenance or containment of solid waste for a period of thirty (30) days or more.

LOT: A parcel of land intended to be separately owned, developed, or otherwise used as a unit. A parcel of land occupied, or intended to be occupied, by a building and its accessory buildings, or by group dwellings and their accessory buildings, together with such open spaces as are required, having at least the minimum are required for the lot in the zone in which such lot is located and having its principal frontage on a public or approved private street or way.

LOT AREA: The total horizontal area within the lot lines of a lot, excluding any street rights-of-way.

LOT, BUILDABLE AREA: That portion of a lot bounded by the required front, rear, and side setback lines.

LOT, CORNER: A lot located at the intersection of two or more streets, the interior angle of such intersection not exceeding one hundred thirty-five(135) degrees. A lot abutting a curved street or streets shall be considered a corner lot if tangent projections of the front lot lines drawn perpendicular at the side of lot lines meet at an interior angle of less than one hundred thirty-five(135) degrees in front of the lot. The required setback on all sides bounded by a street, excluding alleys, shall equal the front building setback of the district in which the lot is located. On a corner lot, the rear lot line shall be opposite the side of the house considered by the Department of Planning and Zoning to be the front.

LOT COVERAGE: The total area of earth horizontally covered by the roofed structures, including accessory structures, such as, but not limited to, garages, roofed patios and roofed porches.

LOT DEPTH: The mean horizontal distance between front and rear lot lines, measured at right angles to the front lot line.

LOT, FLAG: A lot approved with less frontage on a public street than is normally required, where a narrow panhandle access corridor leads to the bulk of the lot located behind lots or parcels with normally required street frontage.

LOT LINE, FRONT: The lot lines abutting a street right-of-way, excluding alleys; or on a flag lot, the interior lot line most parallel to and nearest street from which access is obtained.

LOT LINE, REAR: A lot line or connected lines between the ends of the side lot lines and which is or are parallel to or approximately parallel to the front lot line.

LOT LINE, SIDE: A lot line or connected lot lines commencing at an end of a front lot line and terminating either at an intersection with an end of the rear lot line or at an intersection with the opposite side lot line, no portion of which is parallel to or approximately parallel to the front lot line.

LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the County Recorder's Office, or a parcel of land, the deed to which was recorded in the Recorder's Office prior to adoption of this Ordinance.

LOT, THROUGH: A lot having a frontage on two(2) non-intersecting streets, as distinguished from a corner lot. Such lots shall provide the required front setback along each street, except alleys.

LOT WIDTH: The horizontal distance between side lot lines, measured at the established front setback line and measured at right angles to the lot depth.

MANUFACTURED HOME: A factory-fabricated transportable building designed to be used alone or to be incorporated with similar units at a building site and designed and constructed with a perimeter frame to become a permanent structure on a site, with all outside walls supported by a permanent foundation. A manufactured home is a single-family dwelling for the purposes of this Ordinance.

MARQUEE: A permanent roof-like shelter extending from part or all of the building face over a right-of-way(sidewalk), public or private, and constructed of some durable material such as metal, glass, plastic or wood.

MINIMUM GROUND FLOOR AREA: The minimum ground floor area of a proposed structure, exclusive of open porches, attached garages, and accessory structures.

MINIMUM ROAD FRONTAGE: The minimum property on one(1) side of a street or county road measured along the right-of-way of the street or county road between property lines.

MOBILE HOME: A transportable, factory-built structure larger than three hundred twenty (320) square feet, designed to be used as a year-round residential dwelling, and built prior to

the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction June 15, 1976.

MOBILE HOME PARK: An area of land under single ownership used for the parking of two (2) or ore occupied mobile homes.

MOBILE HOME SITE: The area of land in a mobile home park for the parking of one mobile home.

MOBILE HOME SUBDIVISION: A residential subdivision designed exclusively for, and occupied by, mobile homes in which the homes and land are owned by the same person.

NAMEPLATE: A sign which identifies the owner, resident, or address of the premises where the sign is located and contains no other information.

NATURAL RESOURCES: The Indiana Department of Natural Resources (DNR).

NON-CONFORMING LOTS: A lot of record which does not conform to the lot area or lot width regulations of this Ordinance.

NON-CONFORMING STRUCTURE: A structure designed, converted or adapted for a use prior to the adoption of provisions prohibiting such use or structure in such location.

NON-CONFORMING USE: Any use or arrangement of land or structures legally existing at the time of enactment of this Ordinance, or any of its amendments, which does not conform to provisions of the Ordinance.

NURSING HOME: A private home for the care of children or the aged or infirm, or a place of rest and/or therapy for those suffering bodily disorders, but not including facilities for the treatment of injuries or for surgical care.

OCCUPANCY PERMIT: A certificate signed by an official of Rushville stating that the occupancy and use of land, building, or structure referred to therein complies with the provisions of this ordinance and all other building and local codes which may be applicable. Also referred to as a "Certificate of Occupancy".

OFF-STREET LOADING: An area which is designated permanently for the loading and unloading of vehicles as well as associated egress areas, none of which may lie within a public right-of-way.

OFF-STREET PARKING: The provision of parking spaces on a lot, appropriate in number to accommodate the applicable land use(s), including driveways and maneuvering room, located entirely out of public rights-of-way.

OWNER: An individual or entity having sufficient proprietary interest to seek development of land.

PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PERIPHERAL PARKING: Those parking spaces located at the edge or periphery of a parking lot.

POND: A still body of water having a surface area of five thousand(5,000) square feet or more.

PRINCIPAL BUILDING: The building in which the primary use on the lot is conducted. With regard to school, recreational, or other uses of property which may include several buildings in which activity occurs, the Director shall determine whether or not each building shall be classified as a “principal building”. Standards recognized by the Indiana Department of Fire and Building Services shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

PRINCIPAL USE: The primary use to which the premises is devoted, and the main purpose for which the premises exists, as distinguished from a secondary or accessory use.

PUBLIC SANITARY SEWER SYSTEM: Any system, other than an individual septic tank, tile field, mound system, or similar disposal method, that is operated by a municipality, governmental agency, or public utility for the collections, treatment, and disposal of wastes.

PUBLIC UTILITY STRUCTURE: Electrical and telephone substations and distribution centers, filtration plants, pumping stations, water reservoirs, public or package sewer treatment plants, telephone exchanges, radio and television transmitting or relay stations, antenna towers, and other similar public utility service structures. This definition is not intended to apply to private utilities constructed solely for the use of a specific development.

RECREATIONAL VEHICLE: A vehicle primarily designed as temporary living quarters for recreation, camping, or travel, either with its own motor power or mounted on or towed by another powered vehicle.

RECREATIONAL VEHICLE PARK: An area of land used for the parking of two(2) or more recreational vehicles.

RELIGIOUS INSTITUTIONS: An institution that people regularly attend or participate in, or which holds religious services, meetings, and activities typically incidental to such institution, but not including daycare facilities, schools, or commercial uses.

RETAIL SALES: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

SELF-SERVICE STORAGE FACILITY: A building or group of buildings situated within a controlled access and fenced compound, consisting of small, individual, self-contained units that are leased or owned for the storage of commercial or household goods or supplies.

SETBACK: A line parallel to and equidistant from the relevant lot line(rear, side) between which no buildings or structures above normal grade level may be erected as prescribed in this Ordinance. The minimum required front setback shall be measured from the thoroughfare right-of-way line to any portion of any structure, with the exception of projections allowed by this Ordinance.

SIGN: A single or multi-faced structure or device designed for the purpose of informing or attracting the attention of persons not on the premises on which the structure or device is located.

SIGN AREA:

1. The sign area shall be that area which is enclosed by one (1) rectangle, the sides of which make contact with the extreme points or edges of the sign excluding the supporting structure which does not form part of the sign proper or of the display, or
2. The area of a sign composed of characters or words attached directly to a large, uniform building wall surface and shall be the smallest combination of rectangles which enclose the whole group, including any loops or special symbols.

SIGN, AWNING OR CANOPY: Any sign that is part of, or attached to, an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A sign on a marquee is not considered an awning or canopy sign.

SIGN, CONSTRUCTION: A type of temporary sign designed and used to identify construction projects including project owners, contractors, designers, and financial institutions involved in such project.

SIGN, DIRECTIONAL: Any general informational sign that has a purpose secondary and incidental to the use of the lot on which it is located, such as “no parking,” “entrance,” “loading zone,” and other similar directives. A sign with a commercial message legible from a position on the street right-of-way outside of the lot boundaries on which the sign is located shall not be considered directional.

SIGN, FREE-STANDING: A sign which is completely or principally self-supported by posts or other supports independent of any building or other structure. The following types of signs shall be considered free-standing signs for the purpose of this Ordinance:

SIGN, GROUND: Any sign, other than a pole sign, in which the entire bottom is in contact with or is closely associated to the ground and is independent of any other structure.

SIGN, MONUMENT: A ground sign that is supported by a base that is connected directly to the ground, with a total height no more than four(4) feet above grade.

SIGN, POLE: Any sign supported by one upright pole, column, or brace placed in or on the ground and not attached to any building or structure.

SIGN, HIGH-RISE: A sign erected at a minimum height of fifty(50) feet and a maximum height of eighty-five(85) feet above grade level, with a maximum sign square footage of seven hundred fifty(750) square feet, and upon the premises of the business being advertised.

SIGN, INFLATABLE: Any temporary sign designed to be inflated and attached to a building or any part of the lot by means of a tether so as to float freely in the air; or a similar sign anchored to a building or lot in any manner.

SIGN, INCIDENTAL: A sign that is incidental to the principal use of a lot; specifically, signs designed and erected to preserve pedestrian and vehicle safety, and signs indicating the hours of operation.

SIGN, INTEGRAL: A sign that is architecturally and structurally integral to a building.

SIGN, OBSOLETE: A sign that no longer correctly directs or exhorts any person, or no longer advertises a bona fide business, lessor, owner, activity conducted, or product available on the premises where such sign is displayed.

SIGN, OFF-PREMISES: A sign identifying and/or providing directions to a business or organization which is located on premises separate from the location of the sign.

SIGN, POLITICAL: Temporary signs announcing candidates seeking political office, issues to be voted upon, including referenda, and other data pertinent thereto.

SIGN, PORTABLE: A sign which by its design and construction is readily movable from one location to another, mounted on wheels or on a small trailer frame, or mounted on a supportive frame which is designed to sit on top of the ground or to be temporarily staked or tied to the ground.

SIGN, PROJECTING: A sign that is wholly dependent upon a building for support and that extends outward therefrom more than eighteen(18) inches, typically in a direction perpendicular to the building wall.

SIGN, REAL ESTATE: Any temporary on-premises sign announcing the name of the owner, manager, realtor, or other person directly involved in the sale or rental of the property, or announcing the purpose or conditions for which it is being offered.

SIGN, ROOF: A sign erected, constructed, and maintained upon the roof of a building.

SIGN, STREET ADDRESS: A sign that indicates the street address of a parcel.

SIGN, TEMPORARY: A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material, with or without a structural frame, designed or intended to be displayed for announcement of a special event, sale, political campaign, or other activity typified by short duration.

SIGN, WALL: Any sign affixed directly to, painted on, or otherwise inscribed on an exterior wall and confined within the limits of any building.

SIGN, WINDOW: A sign installed inside a window for purposes of viewing from outside the premises. This term does not include merchandise located in window.

SOLID WASTE: Any yard waste, garbage, refuse, rubbish, sludge, or other discarded or disposed materials, including solids, liquids, semi-solids, or contained gaseous material resulting from any operation, activity, or source.

SPECIAL EXCEPTION: A use that is not listed as a permitted use in the particular zoning district under this Ordinance but which may be compatible with such uses and may promote the realization of the purposes of this Ordinance if such use is restricted as to intensity and location in the district and to such other conditions as may be required by the Board of Zoning Appeals.

STREET: A partially or fully improved public right-of-way which affords the principle means of access to abutting property.

STRUCTURE: Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. A structure is not necessarily a building, except as further defined by that term. This definition is intended to include signs.

SUBSTANTIAL MODIFICATION: Any alteration, repair, enlargement, or extension of an existing building. Such substantial modification is considered to occur when the first alteration of any wall, ceiling, floor, or other structural element of the building commences. This term does not, however include either (1) any project for improvement of a structure to comply with existing health, sanitary, or safety code specifications or (2) any alteration of a structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archeological, and Cultural Sites, Structures, Districts, and Objects.

SUPPLY YARDS: A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling or storage of automobiles or similar vehicles.

SWIMMING POOL: Any structure intended for swimming or recreational bathing that contains water over twenty-four inches deep. This includes in-ground, above-ground, or on-ground swimming pools, hot tubs, and spas.

USE: The purpose of activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

VARIANCE: A variance may be granted by the Board of Zoning Appeals to allow an applicant relief from the requirements of the letter of the ordinance because of unnecessary hardship or practical difficulty.

VEHICLE: An automobile, motorcycle, truck, trailer, semitrailer, bus, school bus, recreational vehicle, golf cart, or **motorized** bicycle.

WHOLESALE: Business establishments that generally sell commodities and material in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

YARD: An open space on the same lot with a building or structure, unoccupied and unobstructed from its lowest level upward, except as otherwise permitted by the Ordinance.

YARD, FRONT: A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line.

YARD, REAR: A yard defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

YARD, SIDE: A yard extending along the side of a lot from the front to the rear yard.

YARD SALES: Temporary sales for the purpose of relieving the household of goods and wares, operated from residential property, and considered a permitted accessory use to a residence in any zoning district, provided the sale is held no more than two (2) times in any calendar year per address, nor more than one (1) time in any one month, with a duration of no more than three (3) consecutive days. This definition is also intended to encompass garage sales, rummage sales, or similar activities.

ZONING MAPS: The map of the City showing the zoning districts therein.

Section 6-101-4. ZONING DISTRICT REGULATIONS

- A. Zoning Districts and Maps
 - B. R-1, Single-Family Residential District
 - C. R-2, Single-Family Residential District
 - D. R-3, Multi-Family Residential District
 - E. R-4, Mobile Home Park District
 - F. C-1, Neighborhood Business District
 - G. C-2, Community Business District
 - H. CBD, Central Business District
 - I. M-1, Light Manufacturing District
 - J. M-2, Heavy Manufacturing District
 - K. CO, Corridor Overlay District
 - L. HND, Historic Neighborhood District
 - M. PUD, Planned Unit Development
-

A. ZONING DISTRICTS AND MAPS

1. Establishment of Zoning Districts

The City is divided into the districts stated in this Ordinance as shown by district boundaries on the zoning maps. The districts are:

Zoning Districts and Maps
R-1, Single-Family Residential District
R-2, Single-Family Residential District
R-3, Multi-Family Residential District
R-4, Mobile Home Park District
C-1, Neighborhood Business District
C-2, Community Business District
CBD, Central Business District
M-1, Light Manufacturing District
M-2, Heavy Manufacturing District
CO, Corridor Overlay District
HND, Historic Neighborhood District
PUD, Planned Unit Development

2. Zoning Map

- a. A zoning map for Rushville is hereby adopted as part of this Ordinance. Zoning maps shall be kept on file and available for examination at the office of the Area Plan Commission of Rush County.
- b. Flood plain maps issued by the Federal Emergency Management Agency are on file in the Rush County Area Plan Commission Office. These maps, in conjunction with the approved Flood Control Ordinance for Rush County shall

be considered a part of this zoning ordinance and used to determine the location of floodplains and floodways.

3. Zoning District Boundaries

When uncertainty exists with respect to the boundaries of various districts as shown on the zoning map, the following rules shall apply:

- a. District boundaries shown within lines of streets, streams or shorelines, transportation rights-of-way, lot lines, or municipal corporation lines, shall be deemed to follow their centerlines. The vacation of streets shall not affect the location of such district boundaries.
- b. Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot. Whenever a single lot greater than two acres in size is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located. Where a zoning district boundary line divides a lot and where distances from the boundary line to property lines are not specifically indicated on the zoning map, the exact boundary line location shall be determined by measurement, using the scale of the zoning map.
- c. When the Director cannot ascertain the location of a district boundary by centerlines, by the scale or dimensions of the zoning map, or by other methods, he shall refuse action, and upon appeal, the Board of Zoning Appeals shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this Ordinance.

REQUIRED FRONT YARD SETBACKS BY ZONING DISTRICT

District	Major Arterial	Minor Arterial	Major Collector	Minor Collector	Local Access	Cul-de-Sac
R-1	45	40	35	30	25	25
R-2	45	40	35	30	25	25
R-3	40	35	30	25	20	20
R-4	40	35	30	25	20	20
R-5	45	40	35	30	25	20
C-1	45	40	35	30	30	25
C-2	45	40	35	35	35	35
M-1	45	40	35	35	35	35
M-2	45	40	35	35	35	35

B. R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT

1. Purpose

The purpose of the R-1, Single-Family Residential District is to provide for residential development at an average density of three (3) residential lots per acre. Development of major subdivisions in the R-1 District shall be limited to sites served by public sanitary sewer systems. Major subdivisions should be limited to sites which are located adjacent to major collectors, minor arterials, or major arterials, as defined in the City of Rushville Comprehensive Plan Update; and are generally best located immediately adjacent to R-1, or R-2, Residential Zoning Districts.

2. Permitted Uses

The following uses are permitted within the R-1, Single-Family Residential District:

- a. One-family dwellings
- b. Public parks and playgrounds
- c. Cemeteries
- d. Essential services
- e. Accessory uses
- f. Home occupations
- g. Child care services for 10 or fewer children
- h. Public and parochial schools
- i. Religious institutions
- j. Federal, State, County or municipal buildings

3. Special Exceptions

The following special exceptions shall be permitted within the R-1, Single-Family Residential District only as specifically authorized by the Board of Zoning Appeals:

- a. Accessory apartments
- b. Child care homes
- c. Child care centers
- d. Hospitals
- e. Public and private utility structures
- f. Public swimming pools
- g. Private clubs
- h. Private camps
- i. Golf courses
- j. Nursing homes

- k. Cellular communications facilities
- l. Assisted living centers

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the R-1, Single-Family Residential District:

Use	Single-family residences	All other permitted uses and special exceptions identified in R-1 Single-Family Residential District
Minimum Lot Size	N/A	21,780 square feet
Minimum Road Frontage	50 feet	50 feet
Minimum Lot Width	50 feet	50 feet
Maximum Lot Coverage	30 percent	40 percent
Minimum Yard Requirements:		
Front Yard Setback	See Table, Page 27	See Table, Page 27
Side Yard Setback	10 feet	10 feet
Rear Yard Setback	20 feet	20 feet
Maximum Building Height	35 feet	35 feet
Minimum Ground Floor Area for Principal Use	1300 square feet for single-story; 900 square feet for two or more stories.	1200 square feet for single-story; 900 square feet for two or more stories.

C. R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT

1. Purpose

The purpose of the R-2, Single-Family Residential District is to provide for a residential development at a density of five (5) dwelling units per acre. Development of major subdivisions in the R-2 District shall be limited to sites served by public sanitary sewer systems. They should be limited to sites which are located adjacent to major collectors, minor arterials, or major arterials, as defined in the City of Rushville Comprehensive Plan Update; and are generally best located immediately adjacent to R-1, R-2, or R-3, Residential Zoning Districts.

2. Permitted Uses

The following uses are permitted within the R-2, Single-Family Residential District:

- a. One-family dwellings
- b. Public parks and playgrounds
- c. Cemeteries
- d. Essential services
- e. Accessory uses
- f. Home occupations
- g. Child care services for 10 or fewer children
- h. Public and parochial schools
- i. Religious institutions
- j. Federal, state, county, or municipal buildings
- k. Manufactured homes (6/12 pitch roof minimum)

3. Special Exception

The following special exceptions shall be permitted within the R-2 Single-Family Residential District only as specifically authorized by the Board of Zoning Appeals:

- a. Accessory apartments
- b. Child care homes
- c. Child care centers
- d. Hospitals
- e. Public and private utility structures
- f. Public swimming pools
- g. Private clubs
- h. Private camps
- i. Golf courses
- j. Nursing homes
- k. Funeral homes
- l. Cellular communications facilities

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the R-2, Single-Family Residential District:

Use	Single-Family Dwelling	All other permitted uses and special exceptions identified in R-2 Single-Family Residential District
Minimum Lot Size	N/A	13,000 square feet
Minimum Road Frontage	50 feet	50 feet
Minimum Lot Width	50 feet	50 feet
Maximum Lot Coverage	35 percent	40 percent
Minimum Yard Requirements:		
Front Yard Setback	See Table, Page 29	See Table, Page 29
Side Yard Setback	10 feet	10 feet
Rear Yard Setback	20 feet	20 feet
Maximum Building Height	35 feet	35 feet; except for structures associated with agricultural uses, where the maximum building height is 50 feet.
Minimum Ground Floor Area for Principal Use	1000 square feet for single-story; 900 square feet for two or more stories.	1000 square feet for single-story; 900 square feet for two or more stories.

D. R-3, MULTI-FAMILY RESIDENTIAL DISTRICT

1. Purpose

The purpose of the R-3, Multi-Family Residential District is to encourage multi-family residential development at a density of twelve (12) dwelling units per acre while allowing for one- and two-family residential development at a density of six (6) dwelling units per acre. Development of major subdivisions or multi-family projects in the R-3 District should be limited to sites which are located adjacent to minor or major arterials, as defined in the City of Rushville Comprehensive Plan Update. Major subdivisions shall be served by public sanitary sewer systems.

2. Permitted Uses

The following uses are permitted within the R-3, Multi-Family Residential District:

- a. Multi-family dwellings
- b. One-family dwellings
- c. Two-family dwellings
- d. Public parks and playgrounds
- e. Essential services
- f. Accessory uses
- g. Home occupations
- h. Child care services for 10 or fewer children
- i. Public and parochial schools
- j. Religious institutions
- k. Federal, state, county, and municipal buildings
- l. Manufactured homes (6/12 pitch roof minimum)

3. Special Exceptions

The following special exceptions shall be permitted within the R-3, Multi-Family Residential District only as specifically authorized by the Board of Zoning Appeals:

- a. Child care homes
- b. Child care centers
- c. Hospitals
- d. Public and private utility structures
- e. Public swimming pools
- f. Nursing homes
- g. Private clubs
- h. Private camps
- i. Funeral homes
- j. Assisted living centers

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the R-3, Multi-Family Residential District:

Use	Multi-Family Dwellings	Single-Family and Two- Family Dwellings	All other permitted uses and special exceptions within the R-3 Multi-Family Residential District
Minimum Lot Size	87,120 sq. ft.	N/A	8,000 square feet
Minimum Road Frontage	100 feet	50 feet	50 feet
Minimum Lot Width	100 feet	50 feet	50 feet
Maximum Lot Coverage	60 percent	35 percent	60 percent
Minimum Yard Requirements:			
Front Yard Setback	See Table, Page 29	See Table, Page 29	See Table, Page 29
Side Yard Setback	20 feet	10 feet	10 feet
Rear Yard Setback	20 feet	20 feet	20 feet
Maximum Building Height	50 feet	35 feet	35 feet
Minimum Ground Floor Area for Principal Use	750 square feet	900 square feet	750 square feet

E. R-4, MOBILE HOME PARK DISTRICT

1. Purpose

The purpose of the R-4, Mobile Home Park District is to provide for the placement of mobile homes within a large-scale unified development. Specific standards are included to promote developments that are one-family residential in character and which minimize incompatibilities with surrounding land uses.

2. Permitted Uses

The following uses are permitted within the R-4, Mobile Home Park District:

- a. Mobile homes qualifying as H.U.D. code manufactured dwellings.
- b. Community buildings specifically designed and operated to serve the development, including child day care centers, dry cleaning and laundry, neighborhood commercial uses, and indoor recreation facilities.
- c. Mobile home sales and management offices, when located in the interior of the park and limited to three percent (3%) of the total park area.
- d. Home occupations
- e. Public parks and playgrounds
- f. Accessory uses
- g. Manufactured homes

3. Yard Requirements

The following lot and yard requirements shall apply within the R-4, Mobile Home Park District:

Use	All permitted uses and special exceptions identified in the R-4, Mobile Home Park District.
Minimum Lot Size	5,000 square feet
Minimum Road Frontage	50 feet
Minimum Lot Width	50 feet
Minimum Yard Requirements:	
Front Yard Setback	See Table, Page 29
Side Yard Setbacks	7 feet per side yard with two (2) side yards; 14 feet between structures
Rear Yard Setback	20 feet
Maximum Structure Height	30 feet
Lot Coverage For Structures	30 percent by mobile home, 40 percent by all structures

4. Development Conditions

a. General Requirements

- i. It shall be unlawful for any person to park, place, locate or permit the parking, placing or locating of any occupied mobile home within the City except in a mobile home park district.
- ii. It shall be unlawful for any person to park, place or locate, or permit the parking, placing or locating of any unoccupied mobile home within the City except on a mobile home sales lot.
- iii. It shall be unlawful for a person to establish, construct, alter or enlarge a mobile home development on land located in the City unless such land is zoned R-4. Prior to construction or issuance of a permit, a final development plan shall be submitted to the Plan Commission for review and approval at a public hearing.

b. Site Conditions

- i. No mobile home shall be used for any purpose other than that of a one-family dwelling or office for the developer. Further, no commercial enterprise shall be carried on within the confines of the mobile home park other than specifically enumerated under the conditions of the development plan.
- ii. Minimum area of a mobile home park shall be fifteen (15) acres with the first phase not less than five (5) acres. The maximum density shall be seven (7) mobile homes per acre.

c. Standard for Mobile Home Developments

i. Landscaping

- (A). The outer boundaries of a mobile home park shall contain a buffer zone. This buffer zone shall consist of a greenbelt strip, not less than thirty (30) feet in width, located along all development boundaries. Existing plant material may serve in whole or in part as the required buffer upon approval of the final development plan.
- (B). Each mobile home lot shall include two (2) trees with a minimum trunk diameter of two (2) inches at a height of twelve (12) inches above the ground at planting.

ii. Mobile Home Spaces

Section 6-101-4. Zoning District Regulations

- (A). Mobile home parks shall be divided into lots with permanent markers indicating the corners of each lot.
- (B). Setback lines, yard requirements and lot coverage.
 - (1). All mobile homes shall be set back at least fifty (50) feet from any public right-of-way outside the development and at least twenty (20) feet from any private drive or public street within the development.
 - (2). No mobile home or structure shall be located closer than forty (40) feet to the boundaries of the development.

iii. Recreation

- (A). In all parks there shall be one or more recreation areas which shall be accessible to all residents. The size of such recreation areas shall not be less than ten (10) percent of the gross site area, and shall not include water bodies, detention or retention ponds, or slope lands having an average slope in excess of fifteen (15) percent.
- (B). Recreation facilities, such as playgrounds, swimming pools and community buildings, should be provided to the extent necessary to meet the anticipated needs of the residents of the park.
- (C). Recreation areas shall be centrally located and away from traffic hazards.

iv. Street and Drive Requirements

- (A). Entrances to a mobile home park shall abut a public street and shall be designed to allow free movement of traffic onto such public street. Entrance ways shall have radii adequate for safe and convenient ingress and egress.
- (B). All streets shall be constructed to City specifications.
- (C). Names shall be assigned to all streets and drives appearing on the final plan and shall be approved by the Director. All mobile home stands shall be systematically identified as they appear on the final plan.
- (D). Driveway Requirements
 - (1). Driveways shall be provided on the site where necessary for convenient access to service entrances of buildings.
 - (2). Driveways shall be a minimum of ten (10) feet wide.

(3). All driveways shall be a dustless, hard surfaced area.

v. Parking Requirements

- (A). At least two (2) off-street parking spaces nine (9) feet by eighteen (18) feet each shall be provided on each mobile home lot.
- (B). No parking shall be permitted on any street or drive.
- (C). The developer shall provide a minimum of one (1) visitor parking space for every five (5) home lots a dimension of ten (10) feet by twenty (20) feet each. Visitor spaces may be located in one centrally located site or may be equally distributed throughout the development.

vi. Mobile Home Stands

- (A). Each mobile home stand shall be either:
 - (1). A reinforced concrete pad of suitable thickness to support the home and appurtenances or the runners with rebar rods, but shall not be less than four (4) inches thick; or
 - (2). A foundation on suitable concrete footings at least thirty-six (36) inches below grade with suitable cross-bracing provided and all remaining open spaces filled with sand or gravel or other suitable material.
- (B). Adequate drainage grading away from mobile home shall be provided.

vii. Permanent Structures

- (A). Buildings shall comply with applicable zoning and building regulations and be approved by the Plan Commission.
- (B). A separate area shall be provided, which shall be fenced, screened or otherwise enclosed, for the storage of residents' camping trailers, boats, snowmobiles and other similar items. These items shall not be stored in any other area of the mobile home park.

viii. Dependent Mobile Homes and Occupied Travel Trailers Prohibited

A mobile home without bath and kitchen facilities is prohibited in all mobile home parks.

ix. Pedestrian Ways

- (A). A common concrete walk system shall be provided and maintained on both sides of all streets within the park. Such common walk shall have a minimum width of four (4) feet.
- (B). All mobile homes shall be connected by concrete or paved individual walks with a minimum width of three (3) feet to common walks or parking areas.
- (C). All walkways shall conform to the Americans with Disabilities Act (ADA) standards.

x. Mobile Home Installation

- (A). The mobile home shall be anchored and tied down in compliance with industry standards, and in a manner sufficient to resist flotation, collapse, or lateral movement of the home.
- (B). Mobile homes located in Flood Hazard Areas shall be anchored in accordance with industry standards or standards established by FEMA, whichever are more restrictive.
- (C). All mobile homes shall have permanent skirting.

xi. Storage

Each lot shall have a minimum of fifty (50) square feet of storage area, whether it be in a central building or in an enclosed accessory structure on the lot.

xii. Utilities

All utilities shall be underground except control instrumentation and substations, which must be screened by planting or ornamental walls.

xiii. Lighting

Street lights shall be provided at all intersections and a minimum five hundred (500) foot spacing as needed between intersections.

5. Procedure for Zoning and Development Approval

a. Preliminary Filing

Any developer proposing a mobile home park in the City shall submit to the Area Plan Commission a legal description of property and a preliminary development plan of the

proposed development. The preliminary filing is to permit staff the opportunity to review and comment on the proposed plans prior to filing.

b. A final development plan shall be filed with the rezoning application.

c. Final Development Plan

Twelve (12) copies shall be submitted and shall include the following items:

- i. Name and address of applicant, name and address of owner of property, name and address of person preparing the plan.
- ii. Location map and legal description of development.
- iii. Development plan of proposed area containing the following information:
 - (A). Proposed name of development;
 - (B). Date, Scale and north arrow;
 - (C). Contour information at vertical intervals of not less than two (2) feet with reference to U.S. Geodetic Survey (USGS) datum;
 - (D). Indication of gross land area of development and a computation of the density of the development.
 - (E). Drawing indicating how surface water drainage will be handled;
 - (F). Drawing indicating location of available sanitary sewers, how sewage will be treated and how domestic water will be supplied, and how the park will be served.
 - (G). Location of all proposed fire hydrants:
 - (H). Statement of restrictions contemplated, if any, such as:
 - (1). Placement of oil tanks, storage sheds, fences and patios;
 - (2). Type of Skirting;
 - (3). Pets;
 - (4). Parking;
 - (5). Boats and outside storage.

Section 6-101-4. Zoning District Regulations

- (I). Elevation of water table, percolation data and description of soil type;
- (J). Layout and width of all streets;
- (K). Service building and maintenance building;
- (L). Playgrounds;
- (M). Mobile home space and mobile home stands;
- (N). Parking spaces, driveways and sidewalks;
- (O). Boundaries, fencing and screen planting, including types of plant materials;
- (P). Street lighting;
- (Q). Landscaping;
- (R). Typical lot detail;
- (S). Tentative letter from State Department of Health and the Indiana Department of Environmental Management as to sanitary sewer and water distribution system;
- (T). Statement of review and tentative approval by City Street Engineer of all access onto public streets; and
- (U). Any other information deemed necessary by the Area Plan Commission.

d. Submission to City Council and Area Plan Commission

- i. The development plan shall be reviewed and approved by the City Council and Area Plan Commission. As a condition of approval the City Council and Area Plan Commission may require modifications to the development plan to ensure compliance with the standards of this ordinance and to promote the purpose of this district.
- ii. Following rezoning, construction of the mobile home park shall be in accordance with the approved development plan.

e. Amendments to Approved Development Plan

- i. The Director or his/her designate may review and approve proposed minor amendments provided that the changes:

Section 6-101-4. Zoning District Regulations

- (A). Maintain the purpose and intent of the approved plan; and
 - (B). Do not result in the addition, deletion, or relocation of approved curb cuts onto public streets or cross access drives onto adjoining properties; increase the density or size of the mobile home park; reduce or alter the perimeter treatment of the site; add to the approved uses of the park; reduce approved setbacks for buildings, homes, structures, and other site elements; or create a significant impact on surrounding properties.
- ii. All other amendments shall be deemed major and must be reviewed and approved by the City Council and the Area Plan Commission following a public hearing.

F. C-1, NEIGHBORHOOD BUSINESS DISTRICT

1. Purpose

The purpose of the C-1, Neighborhood Business District is to provide a mix of small commercial, office, and public uses designed to serve the convenience purposes of a neighborhood market. The scale of development within C-1, Neighborhood Business District shall be compatible with surrounding residential development that the neighborhood business district is designed to serve.

2. Permitted Uses

The following uses are permitted within the C-1, Neighborhood Business District:

- a. Retail sales establishments not exceeding 65,000 square feet in gross floor area.
- b. Bakeries
- c. Barber and beauty shops
- d. Delicatessens
- e. Florists
- f. Laundromats
- g. Medical and dental offices and clinics
- h. Restaurants
- i. Taverns
- j. Theaters
- k. Dry cleaners
- l. Offices, banks, financial institutions, and insurance agencies
- m. Personal and professional services
- n. Federal, state, county, or municipal buildings
- o. Public parks and playgrounds
- p. Contractor's office, excluding contractor's yard
- q. Essential services
- r. Museums
- s. Accessory uses
- t. Home occupations
- u. Public swimming pools
- v. Funeral homes
- w. Assisted living centers
- x. Nursing homes
- y. Public and parochial schools

3. Special Exception

The following special exceptions shall be permitted within the C-1, Neighborhood Business district only as specifically authorized by the Board of Zoning Appeals:

Section 6-101-4. Zoning District Regulations

- a. One-family dwellings
- b. Two-family dwellings
- c. Multi-family dwellings
- d. Auto sales, service and repair
- e. Commercial recreation facilities
- f. Public or private utility structures
- g. Religious institutions
- h. Private clubs
- i. Drive-in businesses
- j. Public parking lots
- k. Cellular communications facilities
- l. Child care centers
- m. *Heating, Cooling and repair
plumbing and electrical business
small repair business (as amended 11-6-06)*

Restrictions for category m:

- 1.) *Business must be contained within a building.*
- 2.) *Business may not have third shift hours.*
- 3.) *Number of employees not to exceed five.*
- 4.) *All other restrictions now in the zoning code that are applicable
To the C-1 zone are also applicable to these additional uses. (added 11-6-06)*

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the C-1, Neighborhood Business District.

Use	All permitted uses and special exceptions identified in C-1, Neighborhood Business District, excluding One- Two- and Multi-family dwellings	Multi-family dwellings	One- and Two-family dwellings
Minimum Lot Size	11,000 square feet	87,120 square feet	13,000 square feet
Maximum Lot Coverage	60 percent	60 percent	35 percent
Minimum Road Frontage	75 feet	100 feet	50 feet
Minimum Lot Width	75 feet	100 feet	50 feet
Minimum Yard Requirements:			
Front yard Setback	See Table, Page 29	See Table page 29	See Table Page 29
Side Yard Setback	20 feet	30 feet	10 feet
Rear Yard Setback	20 feet	30 feet	20 feet
Maximum Building Height	50 feet	50 feet	35 feet
Minimum Ground Floor Area for Principal Use	750 square feet	750 square feet	900 square feet

G. C-2, COMMUNITY BUSINESS DISTRICT

1. Purpose

The purpose of the C-2, Community Business District is to provide a mix of commercial, office, public, and small-scale industrial uses which meet the needs of a citywide market.

2. Permitted Uses

The following uses are permitted within the C-2, Community Business District:

- a. Retail sales establishments
- b. Bakeries
- c. Barber and beauty shops
- d. Delicatessens
- e. Florists
- f. Accessory uses
- g. Laundromats
- h. Medical and dental offices and clinics
- i. Restaurants
- j. Taverns
- k. Dry cleaners
- l. Offices, banks, financial institutions, and insurance agencies
- m. Personal and professional services
- n. Federal, state, local and municipal buildings
- o. Public parks and playgrounds
- p. Contractor's office, excluding contractor's yard
- q. Essential services
- r. Museums
- s. Auto sales, service and repairs
- t. Hotels and motels
- u. Private clubs
- v. Drive-in businesses
- w. Veterinary hospitals
- x. Kennels
- y. Theaters

- z. Hospitals
- aa. Farm implement sales, service, and repair
- bb. Home occupations
- cc. Public swimming pools
- dd. Funeral homes
- ee. Printing shops
- ff. Mini storage buildings
- gg. Assisted living centers
- hh. Nursing homes
- ii. Public and parochial schools

3. Special Exceptions

The following special exceptions shall be permitted within the C-2, Neighborhood Business District only as specifically authorized by the Board of Zoning Appeals.

- a. Building supply store, including lumber sales
- b. Commercial recreation facilities
- c. Multi-family dwellings
- d. Wholesale businesses
- e. Commercial schools
- f. Religious institutions
- g. Public transportation terminals
- h. Mobile home sales
- i. Adult entertainment businesses
- j. Drive-in businesses
- k. Public parking lots
- l. Public or private utility structures
- m. Truck stops
- n. Cellular communications facilities
- o. Recreational vehicle parks

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the C-2, Community Business District:

Use	Multi-family dwellings	All permitted uses and special exceptions identified in C-2 Community Business District, except multi-family dwellings
Minimum Lot Size	87,120 square feet	23,000 square feet
Maximum Lot Coverage	60 percent	60 percent
Minimum Road Frontage	100 feet	120 feet
Minimum Lot Width	100 feet	120 feet
Minimum Yard Requirements:		
Front Yard Setback	See Table, Page 29	See Table, Page 29
Side Yard Setback	30 feet	30 feet
Rear Yard Setback	30 feet	30 feet
Maximum Building Height	50 feet	50 feet
Minimum Ground Floor Area for Principal Use	750 square feet	750 square feet

H. CBD, CENTRAL BUSINESS DISTRICT

1. Purpose

The purpose of the CBD, Central Business District is to promote and encourage continued vitality in the established Central Business District. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities.

2. Permitted Uses

The following uses are permitted within the CBD, Central Business District:

- a. Retail sales establishments not exceeding 65,000 square feet in gross floor area.
- b. Bakeries
- c. Barber and beauty shops
- d. Delicatessens
- e. Florists
- f. Laundromats
- g. Medical and dental offices and clinics
- h. Restaurants
- i. Taverns
- j. Theaters
- k. Dry cleaners
- l. Offices, banks, financial institutions, and insurance agencies
- m. Personal and professional services
- n. Federal, State, county, or municipal buildings
- o. Public parks and playgrounds
- p. Contractor's office, excluding contractor's yard
- q. Essential services
- r. Museums
- s. Accessory uses
- t. Home occupations
- u. Public and parochial schools
- v. Funeral homes
- w. Assisted living centers

- x. Nursing homes
- y. Religious institutions

3. Special Exception

The following special exceptions shall be permitted within the CBD, Central Business District only as specifically authorized by the Board of Zoning Appeals:

- a. One-family dwellings
- b. Two-family dwellings
- c. Multi-family dwellings
- d. Auto sales, service and repair
- e. Commercial recreation facilities
- f. Public or private utility structures
- g. Child care centers
- h. Private clubs
- i. Drive-in businesses
- j. Cellular communications facilities
- k. Child care centers
- l. *Tattoo parlors and body modifications. (added 12-16-08)*

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the CBD, Central Business District.

Minimum Lot Size	N/A
Maximum Lot Coverage	N/A
Minimum Road Frontage	N/A
Minimum Lot Width	N/A
Minimum Yard Requirements:	
Front Yard Setback	Average of buildings on same block
Maximum Building Height	50 feet

The CBD is exempt from the off-street parking and loading requirements of this Ordinance.

I. M-1, LIGHT MANUFACTURING DISTRICT

1. Purpose

The purpose of the M-1, Light Manufacturing District is to accommodate limited manufacturing uses having a minimal impact on surrounding areas. The intent is to allow manufacturing development by reason of location and the availability of adequate transportation and infrastructure systems, while protecting the surrounding uses from negative external effects. To minimize the impact on surrounding properties, the hours of operation of a M-1, Light Manufacturing District that borders a residential zone or use will be limited from 7 a.m. to 11 p.m. seven days a week.

2. Permitted Uses

The following are permitted within the M-1, Light Manufacturing District:

- a. Federal, State, county, or municipal buildings other than schools
- b. Contractor's office, including contractor's yard
- c. Essential services
- d. Research and testing labs
- e. Warehouses
- f. Public parking lots
- g. Offices, banks, financial institutions, and insurance agencies
- h. Auto sales, service, and repair
- i. Manufacturing (enclosed), with allowance for 10% retail floor area (gross)
- j. Assembly, warehousing and distribution of previously prepared material
- k. Accessory uses
- l. Wholesale businesses
- m. Service businesses providing support services to manufacturing activities
- n. Automobile and truck repair shops, including painting, upholstering, reconditioning and body repair when performed entirely within a building
- o. Machine, tool, and die shops, excluding presses and similar equipment
- p. Equipment rental facilities
- q. Building supply store, including lumber sales
- r. Home occupations
- s. Truck stops

3. Special Exceptions

The following special exceptions shall be permitted within the M-1, Light Manufacturing District only as specifically authorized by the Board of Zoning Appeals:

- a. Communication, television, and radio towers
- b. Airports and heliport landing fields
- c. Truck, tractor, trailer or bus storage, parking lot or yard, or garage
- d. Stadiums, auditoriums, arenas
- e. Public or private utility structures
- f. Cellular communications facilities
- g. Public transportation terminals
- h. Adult entertainment businesses
- i. Restaurants
- j. Hotels and motels
- k. Motor freight terminals
- l. Supply yards

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the M-1, Light Manufacturing District

Use	All permitted uses and special exceptions identified in M-1, Light Manufacturing District.
Minimum Lot Size	23,000 square feet
Maximum Lot Coverage	65 percent
Minimum Road Frontage	100 feet
Minimum Lot Width	100 feet
Minimum Yard Requirement:	
Front Yard Setback	See Table, Page 29
Side Yard Setback	50 feet
Rear Yard Setback	50 feet
Maximum Building Height	50 feet
Minimum Ground Floor Area for Principal Use	Not applicable

J. M-2, HEAVY MANUFACTURING DISTRICT

1. Purpose

The purpose of M-2, Heavy Manufacturing District is to accommodate a broad range of industrial activities, diverse in products, operational techniques, and size, which have a greater impact on the surrounding environment than the M-1, Heavy Manufacturing District. The uses permitted in this district generally include those manufacturing and industrial activities which cannot be operated economically without creating some conditions which may be objectionable to the occupants of adjoining properties and which, for that reason, must be grouped in areas where similar industrial uses are now located or where the permitted uses will be best located in accordance with the City of Rushville Comprehensive Plan.

2. Permitted Uses

The following uses are permitted within the M-2, Heavy Manufacturing District:

- a. Federal, State, county, or municipal buildings other than schools
- b. Contractor's office
- c. Auto sales, service, and repair
- d. Contractor's yard
- e. Essential services
- f. Public transportation terminals
- g. Research and testing labs
- h. Warehouses
- i. Public parking lots
- j. Assembly, warehousing, and distribution of previously prepared material
- k. Accessory uses
- l. Wholesale businesses
- m. Service businesses providing support services to manufacturing activities
- n. Automobile and truck repair shops, including painting, upholstering, reconditioning and body repair when performed entirely within a building
- o. Machine, tool, and die shops
- p. Outdoor storage facilities
- q. Equipment rental facilities
- r. Building supply store, including lumber sales
- s. Livestock auctions
- t. Motor freight terminals

- u. Manufacturing
- v. Grain Elevators
- w. Supply yards
- x. Truck and railroad terminals
- y. Processing plants
- z. Home occupations
- aa. Truck stops

3. Special Exceptions

The following special exceptions shall be permitted within the M-2, Heavy Manufacturing District only as specifically authorized by the Board of Zoning Appeals:

- a. Communication, television, and radio towers
- b. Truck, tractor, trailer, or bus storage, parking lot or yard, or garage
- c. Stadiums, auditoriums, arenas
- d. Stockyards and slaughter houses
- e. Public or private utility structures
- f. Airports and heliport landing fields
- g. Mineral excavation, including gravel pits
- h. Junk yards
- i. Bulk fuel storage
- j. Concrete mixing
- k. Manufacture and processing of explosive material
- l. Cellular communications facilities
- m. Adult entertainment businesses
- n. Restaurants
- o. Hotels and motels
- p. Kennels
- q. Public and parochial schools

4. Lot and Yard Requirements

The following lot and yard requirements shall apply within the M-2, Heavy Manufacturing District:

Use	All permitted uses and special exceptions identified in M-2, Heavy Manufacturing District.
Minimum Lot Size	40,000 square feet
Maximum Lot Coverage	65 percent
Minimum Road Frontage	100 feet
Minimum Lot Width	100 feet
Minimum Yard Requirements:	
Front Yard Setback	See Table, Page 29
Side Yard Setback	50 feet
Rear Yard Setback	50 feet
Maximum Building Height	50 feet
Minimum Ground Floor Area for Principal Use	Not applicable

K. CO, CORRIDOR OVERLAY DISTRICT

1. Purpose, Intent and Authority

a. Statement of Purpose

It is the purpose of this district to establish standards for the design of sites, buildings, structures, plantings, signs, street hardware and such other improvements that are visible to the public and affect the physical development of land within the State Route 3, State Route 44, and U.S. 52 corridors. The standards in this district shall not apply to one or two family residential uses, agricultural operations, as defined in this Ordinance, or to the sale of produce from land on which the agricultural operation takes place. The following standards shall be considered in evaluating projects proposed within a Corridor Overlay District:

- i. All structures will be evaluated on the overall appearance of the project and shall be based on the quality of its design and its relationship to the surrounding area.
- ii. The quality of design goes beyond the materials of construction to include scale, mass, color, proportion, and compatibility with adjoining developments.
- iii. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
- iv. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

b. Statement of Intent

These standards are intended to promote high quality creative development that will combine imagination, innovation and variety in the appearance of buildings and sites in the overlay zone. These standards are further intended to preserve and enhance property values and to promote the public health, safety and welfare by providing for consistent and coordinated treatment of the

property encompassed by the established corridors. The impact of new development upon these corridors creates a setting that commands the highest standards of development which encourages efficient use of land, promotes coordinated development, permits innovative site designs, establishes development standards and preserves the integrity of the roadways within this corridor.

c. Authority

Authority underlying creation of the corridor overlay districts is provided for by the General Assembly of the State of Indiana.

d. Statement of Significance

- i. State Route 3 is a highway traversing Rushville from the north to the south. It links Rushville to I-70 to the north and I-74 and Greensburg to the south. The highway serves as regional connector to the Interstates and as a “Main Street” that provides local service and community facilities to the residents. The northern portion of the corridor has experienced substantial commercial development. Further development along State Route 3 will continue to change the current character of this corridor into a more intense urban environment.
- ii. State Route 44 is a highway traversing Rushville from east to west. It links Rushville with Connersville to the east and Shelbyville and I-74 to the west. The highway serves as a major transportation route for east central Indiana.
- iii. U.S. 52 highway traverses Rushville from the northwest to the southeast. It acts as a secondary route linking Indianapolis to Cincinnati.

2. Boundaries

The boundaries of the State Route 44, State Route 3 and U.S. 52 Corridor Overlay Districts are hereby established and the Director is hereby authorized to show said boundaries on the Official Zoning Map of the City of Rushville. The boundaries of these Corridor Overlay Districts are located five hundred (500) feet from and on either side of the centerline of said routes in the City of Rushville.

3. City Council and Area Plan Commission Approval

Approval by the City Council and the Area Plan Commission, or its duly appointed or designated representative, shall be required for any proposed or revised development plan, structure or structural alteration in a Corridor Overlay District. City Council and the Area Plan Commission approval of the architectural design, landscaping, drainage, sewerage, parking, signage, lighting and access to

the property shall be necessary prior to: (1) the establishment of any use of the land; (2) the issuance of any improvement location permit; (3) the erection, construction or structural alteration of any building(s); or (4) modification or revision of any site development plan. The City Council and the Area Plan Commission, in reviewing applications, shall examine factors concerning the site, site plan, and the surrounding area, which include but are not limited to the following items:

- a. Topography;
- b. Zoning on site;
- c. Surrounding zoning and existing land use;
- d. Streets, curbs, gutters, and sidewalks;
- e. Access to public streets;
- f. Driveway and curb cut locations in relation to other sites;
- g. General vehicular and pedestrian traffic;
- h. Internal site circulation;
- i. Special and general easements for public or private use;
- j. On-site and off-site surface and subsurface storm and water drainage;
- k. On-site and off-site utilities;
- l. The means and impact of sanitary sewage disposal and water supply technique;
- m. Dedication of streets and rights-of-way;
- n. Protective restrictions or covenants and/or recorded commitments;
- o. Provisions for adequate and acceptable setbacks, lighting, signage, screening, landscaping, and compatibility with existing platted residential use; and
- p. Effects the proposed project may have on the entire Corridor Overlay District.

4. Building Design Standards

a. Architectural Design Requirements

- i. Exterior metal walls shall be prohibited on all buildings erected, constructed, altered, repaired or used which abut the Overlay District.
- ii. Building facades may be constructed from masonry or glass, as defined below or other materials or products which provide the same desired stability and quality, such as composite stone, plaster, or “Dryvit.” Products other than those listed must be approved by the City Council or its duly appointed or designated representative.
 - (A). Masonry Construction: Includes all masonry construction which is composed of solid, cavity, faced, or veneered-wall construction, unless otherwise approved by the City Council or its duly appointed or designated representative.
 - (1). Stone material used for masonry construction may consist of granite, sandstone, slate, limestone, marble, or other hard or durable all-weather stone. Ashlar, cut stone, and dimensioned stone construction techniques are acceptable.
 - (2). Brick material used for masonry construction shall be composed of hard fired (Kiln-fired) all-weather standard size brick or other all-weather facing brick.
 - (3). Concrete finish or precast concrete panel (tilt wall) construction shall be exposed aggregate, bush-hammered, sand blasted, or other concrete finish as approved by the Plan Commission or its duly appointed or designated representative.
 - (B). Glass Wall: Includes glass curtain walls or glass block construction. A glass curtain wall shall be defined as an exterior wall which carries no floor or roof loads, and which may consist of a combination of metal, glass and other surfacing materials supported in a metal framework.

- iii. The materials and finishes of exposed roofs shall compliment those used for the exterior walls. Standing-seam metal roofs shall be permitted. An exposed roof shall be defined as that portion of a roof visible from ground level of the corridor or any adjacent public thoroughfare or residentially zoned or used area.
 - iv. Roof mounted equipment on exposed roofs shall be screened from view. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.
 - v. All building mechanical and electrical equipment located adjacent to the building and visible from a public thoroughfare or a residentially zoned or used area shall be screened from view. Such screens and enclosures shall be treated as an integral element of the building's appearance.
 - vi. The exposed walls and roofs of buildings shall be maintained in a clean, orderly, and attractive condition, free of cracks, dents, punctures, breakage, and other forms of visible marring. Materials that become excessively faded, chalked or otherwise deteriorated shall be refurnished, repainted, or replaced.
 - vii. Loading berths and exterior work areas shall be screened from view from public ways. Screening shall be accomplished by use of walls, fencing, planting, or combinations of these, and shall be equally effective in winter and summer.
- b. Relationship of Buildings to Site
- i. The site shall be planned to accomplish a desirable transition with the streetscape and provide for adequate planting, safe pedestrian movement, and parking area.
 - ii. Site planning in which setbacks and yards are in excess of zoning restrictions is encouraged to provide an interesting relationship between buildings.
 - iii. Parking areas shall be treated with decorative elements, building wall extensions, plantings, beams, or other innovative means so as to attractively landscape and/or screen parking areas from view from public ways.
 - iv. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

- v. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

c. Building Orientation

All structures shall be sited to front onto Corridor Streets (as defined herein) or give the appearance of a front-like façade on Corridor Streets.

d. Minimum Building Height

All principal structures within the Corridor Overlay District shall have minimum building height of fourteen (14) feet for structures with a flat roof. However, for structures with a gable, hip, gambrel or other type of pitched roof, the minimum building height shall be twelve (12) feet to the lowest eaves of the structure.

5. Signage Standards

- a. Signage shall be designed to be an integral part of the architectural and landscaping plans. The colors, materials, and style of signage shall be architecturally compatible and accentuate the buildings and landscaping on the site. The colors, materials, and lighting of every sign shall be restrained.
- b. All signs, except private traffic directional signs, are prohibited in the required greenbelt areas.
- c. Private traffic directional signs and pavement markings for the direction and control of traffic into, out of, and within the site shall conform to the Manual on Uniform Traffic Control Devices, as published by the Indiana Department of Highways.
- d. The integration of project signage to identify multiple businesses is encouraged.
- e. All on-premises signage shall conform to the standards and requirements of the underlying zoning district.
- f. Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.

- g. Each sign shall be compatible with the signs on adjoining premises and shall not compete for attention.
- h. Identification signs of standardized design such as corporate logos shall conform to the same requirements imposed on all other signs.

6. Landscaping Plan

- a. A landscaping plan shall be submitted to the Director for approval at the same time other plans (i.e. architectural design, lighting, parking, signage, and site plans) are submitted. This plan shall be drawn to scale, including dimensions and distance, shall delineate all existing and proposed structures, private parking areas, walks, handicap ramps, terraces, driveways, signs, lighting standards, steps and other similar structures; and shall delineate the location, size, and description of all landscape materials. Landscape treatment for plazas, roads, paths, and service and private parking areas shall be designed as an integral and coordinated part of the landscape plan for the entire lot.

- b. Areas to be Landscaped

- i. Greenbelt

The greenbelt shall be suitably landscaped and shall be otherwise unoccupied except for steps, walks, terraces, driveways, lighting standards, and other similar structures, but excluding private parking areas. The greenbelt width is as defined by this Ordinance. Mounding and other innovative treatments are to be especially encouraged in this area.

- ii. Parking Lot Perimeter

A minimum six (6) foot wide landscaping strip shall be provided around the perimeter of the parking lot. The landscaping strip shall be planted with canopy trees, ornamental trees, and low shrubs. A minimum of one (1) canopy tree or ornamental tree per every forty (40) feet of perimeter shall be provided within the landscaping strip, along with a minimum of one (1) shrub per every four (4) feet.

- iii. All parking lot landscaping shall be of a quality to improve and enhance the site and its surrounding area. Effective use of mounding and existing topography is encouraged. Landscaping and planting areas shall be reasonably dispersed throughout the parking area, and not less than five (5) percent of a private parking lot shall be landscaped. (For purposes of this computation, landscaping in the Greenbelt, adjacent to buildings, and on

the periphery of the lot shall not be included.) Landscaping shall be specifically provided at the ends of parking rows and as a means of separating parking from major circulation isles within lots. One (1) shade tree shall be provided for every one hundred twenty (120) square feet of this interior parking lot landscaping area. Plant material within parking lots shall provide for safe visibility and maintain clear site lines between two (2) and eight (8) feet from the top of the curb. Such landscaping shall be provided in any combination of planting islands, planting peninsulas, and entrance ways, and shall be dispersed so as to define aisles and limit unbroken rows of parking to one hundred fifty (150) lineal feet.

c. Landscaping Standards

- i. The interior dimensions, specifications and design of any planting area or planting medium proposed to be constructed shall be sufficient to protect the landscaping materials planted therein and to provide for proper growth.
- ii. Primary landscaping materials used in the Greenbelt shall consist of one or a combination of the following: shade trees, ornamental trees, and shrubs.
- iii. The primary landscaping materials used in and around private parking areas shall be trees which provide shade at maturity. Shrubbery, hedges, and other planting material may be used to compliment tree landscaping, but shall not be the sole contribution to the landscaping.
- iv. All shade trees proposed to be used in accordance with any landscaping plan shall be a minimum of eight (8) feet in overall height and have a minimum trunk diameter of two and a half (2 ½) inches at a height twelve (12) inches above ground at planting. They should be of a variety which will attain an average mature spread greater than twenty (20) feet.
- v. Landscaping materials selected should be appropriate to local growing and climatic conditions. Wherever appropriate existing trees should be conserved and integrated into the landscaping plan. Plant material shall be selected for interest in its structure, texture, color and for its ultimate growth. Indigenous and other hardy plants that are harmonious to the design, and of good appearance, shall be used.
- vi. The landscaping plan shall ensure that sight distance is not obstructed for drivers of motor vehicles.
- vii. Where natural or existing topography patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography shall be permitted where it contributes to good appearance.

- viii. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
- ix. In location where plants will be susceptible to injury by pedestrians or motor traffic, they shall be protected by appropriate curbs, tree guards, or other devices.
- x. Where building sites limit planting, the placement of trees in parkways or paved areas is encouraged.
- xi. In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone, gravel, and cobbles shall be used. Carefully selected plants shall be combined with such materials where possible.

d. Landscaping Installation and Maintenance

i. Installation

All landscaping required by the approved landscaping plan shall be installed prior to the issuance of a building occupancy permit if said permit is to be issued during a planting season, or within six (6) months of the date an occupancy permit is issued during a non-planting season.

ii. Maintenance

It shall be the responsibility of the owners and their agencies to ensure proper maintenance of the landscaping, in accordance with the standards set by this Ordinance and as indicated on the landscaping plan which has been approved by the Director. This is to include, but not be limited to, replacing dead plantings with identical varieties or a suitable substitute, and keeping the area free of refuse and debris.

iii. Changes after Approval

Any change or deviation to an approved landscaping plan shall require the approval of the Director. Changes that do not conform to this Section shall be subject to the procedures for a variance as established by Rush County Area Plan Commission. Landscaping improvements made on a site that are not in conformance with the approved landscaping or site plan shall be considered a violation of this Section and subject to the fines and penalties established in this Ordinance. However, landscaping improvements may exceed the minimum requirements shown on the approved plan.

e. Inspection

The director, or a duly appointed representative, shall have the authority to visit any lot within a Corridor Overlay District to inspect the landscaping.

7. Parking Requirements

Parking is to be discouraged between the required front setback and the building(s) when other suitable areas for parking exist on the property; however, a maximum of twenty (20) percent private parking may be permitted in the area between the front yard setback and the building(s). Efforts to break up large expanses of pavement are to be encouraged by the interspersing of appropriate planting areas wherever possible. The number of parking spaces required is as established in Section 6-101-7.D of this Ordinance, depending upon the zoning and the intended land use. Alternatives to the established parking requirements may be approved for developments which have a mixture of uses with peak parking requirements provide expertly prepared justification for seeking such exception (i.e., a reference such as “Shared Parking,” Urban Land Institute). There shall be an appropriate number of parking spaces, accessible to the building(s), identified as being reserved for use by handicapped individuals, and these spaces shall be of sufficient width (minimum of twelve (12) feet) to accommodate their needs. All parking standards shall comply with Section 6-101-7 of this Ordinance.

8. Lighting Requirements

In reviewing the lighting plan for a lot proposed to be developed in the Corridor Overlay District, factors to be considered by the Commission shall include but are not limited to:

- a. Lighting at the property line (to measure no more that one half (0.5) foot candle);
- b. Safety provided by the lighting;
- c. Security provided by the lighting;
- d. Possible light spillage or glare onto adjoining properties or streets. (Down-shielding is encouraged and spillage or glare onto adjoining properties is prohibited.);
- e. Attractiveness of the lighting standards and their compatibility with the overall treatment of the property;
- f. Height and placement of lighting standards considering the use;

- g. Exterior lighting, when used, shall enhance the building and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas.

9. Access to Individual Sites

- a. The Corridor streets, by their functional nature as primary thoroughfares, must have reasonable restrictions as to the number and location of access points within the overlay district.
- b. State Routes 3, 44, and U.S. 52: Represent major thoroughfares which must be controlled as to the number of access points (curb cuts) permitted.
- c. In order to provide safe and efficient traffic movement to and from adjacent lands and to protect the functional integrity of the corridor's primary thoroughfares, in many cases frontage roads, access roads, and distributors roads will have to be built. Such roads shall be coordinated with those of continuous lots and designed to preserve the aesthetic benefits provided by the greenbelt areas. Access at the side or rear of buildings is encouraged. New access points onto the primary thoroughfares in the corridor shall be coordinated with existing access points whenever possible.
- d. Curb cuts shall be established no closer than one (1) for each four hundred (400) feet of frontage. No curb cuts shall be allowed within two hundred (200) feet of any intersection of public roads. Opposing curb cuts shall align squarely or be offset no less than two hundred (200) feet.

10. Access to Potential Development Sites

Stub streets shall be built in all cases where adjacent lots have reasonable potential for development. Reasonable potential shall include any adjacent parcel of adequate size for commercial or residential development or any adjacent parcel so determined by the City Council and the Area Plan Commission or its duly appointed or designated representative.

11. Other Standards

- a. Outside Storage Prohibited

No outside, unenclosed storage of refuse (whether or not in containers) shall be permitted on any lot. All refuse shall be contained completely within the principle or accessory building(s).

b. Loading Berth Requirements

Loading berth requirements shall be as specified in the underlying zoning district(s), except that any loading or unloading berth or bay shall be screened from view beyond the site by landscaping or other screening.

c. Accessory Buildings and Uses

All accessory buildings and uses which are permitted in the underlying zoning district(s) shall be permitted within the Corridor Overlay District, except that any detached accessory building on any lot shall be designed to be architecturally compatible with the primary structure with which it is associated. All accessory buildings shall have a roof.

d. Paving Requirements

All parking areas shall be finished with a hard surface such as asphalt or concrete.

L. HND, HISTORIC NEIGHBORHOOD DISTRICT

1. Purpose and Intent

The intent of this section is to provide for the implementation of a plan to preserve, protect and to encourage rehabilitation and preservation of sites, structures and districts of historic interest within the City of Rushville and to thereby promote the cultural, economic and general welfare of the public.

2. Historic Board of Review

- a. There is established the Rushville Historic Board of Review, hereinafter referred to as the Historic Board. The Historic Board shall consist of five voting members. The voting members shall be appointed by the Mayor of the city, subject to the approval of the Common Council of the city. Voting members shall be residents of the city who are interested in the preservation and development of historic areas or districts. In addition, at least three members shall be property owners or shareholders of a property owner of real estate located within the Historic District. Voting members shall serve for a term of three years; however, the initial terms of members shall be one member for one year, two members for two years; and two members for three years and two members for three years in order for the terms to be staggered. After the initial appointment, no member shall serve more than two consecutive terms without a three-year layout. In the event any member shall no longer qualify because of residency or other requirements, that member shall resign when the disqualification occurs. Vacancies shall be filled in the same manner as the appointment and only for the unexpired term of the vacant member.
- b. The Mayor may, with the approval of the Common Council, appoint advisory members to the Historic Board as the Mayor considers appropriate.
- c. Members of the Historic Board shall serve without compensation but may be paid for reasonable expenses incurred in the performance of their duties.
- d. The Historic Board shall elect from its membership a Chairman and a Vice-Chairman, who shall serve for one year and who may be reelected. The Chairman shall preside over the Historic Board and shall have the right to vote.

In the absence or disability of the Chairman, the Vice-Chairman shall perform the duties of the Chairman. The Director of the Area Plan Commission shall serve as Secretary of the Historic Board. The Historic Board shall adopt rules for the transaction of its business not inconsistent with this code. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. All meetings of the Historic Board must be open to the public and a public record shall be kept of the Historic Board's resolutions, proceedings, and actions.

e. The Historic Board shall hold regular meetings, at least monthly, except when it has no business pending.

3. Historic Preservation Officer

The Building Inspector, who shall be the administrator, and his staff shall provide such technical, administrative, and clerical assistance as required by the Historic Board of Review.

4. Powers and Duties of Historic Board

1. The Historic Board shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in a historic district, and with controlling signage. However, the Historic Board may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district.
2. A Historic Neighborhood District recommendation may be initiated by any one of the following groups:
 - a. Owners of property in fee simple may petition the Historic Board for consideration of inclusion in the district.
 - b. The Historic Board may draw and submit Historic Neighborhood District maps, in accordance with subsection © below, as an amendment.
 - c. A member of the Common Council may nominate a property to the Historic Board for consideration.
3. In order to establish a Historic Neighborhood District, the Historic Neighborhood Board shall perform the following:

- a. The Board should prepare a map describing the boundaries of the proposed district. The district may be limited to the boundaries of a property containing a single building, structure or site.
- b. After approval, the Board will submit the map to the Common Council for approval. Upon approval by the Common Council, the revised district boundaries will take effect.

5. Historic District Boundaries

The initial Historic District boundaries shall be those adopted by the Common Council as part of the City of Rushville Comprehensive Plan adopted in 2003.

6. Relationship to Zoning Districts

The Historic District regulations provided in this chapter are intended to preserve and protect the historic, architecturally worthy buildings, structures, sites, monuments, streetscapes, squares, and neighborhoods of the historic districts. Zoning districts lying within the boundaries of the historic district are subject to the regulations for both the zoning district and the historic district. If there is a conflict between the requirements of the historic district and the zoning district, the more restrictive requirements shall apply.

7. Certificate of Appropriateness Required

A Certificate of Appropriateness must be issued by the Historic Board of Review before a permit is issued for, or work is begun on, any of the following:

- a. Within all areas of the historic district:
 1. The demolition of any building;
 2. The moving of any building
 3. A conspicuous change in the exterior appearance of existing buildings by additions, reconstruction, alteration, or maintenance involving exterior color changes;
 4. Any new construction of a principal building or accessory building or structure subject to view from a public way.
- b. Within a primary area of the historic district:
 1. A change in walls and fences or construction of walls and fences, if along public ways; or
 2. A conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions,

reconstruction, alteration, or maintenance involving exterior color changes.

8. Application for Certificate of Appropriateness

Application for a Certificate of Appropriateness may be made in the office of the Building Inspector on forms provided by the Historic Board of Review as provided for in section 16. Detailed drawings, plans, or specifications are not required. However, to the extent reasonably required for the Historic Board to make a decision, each application must be accompanied by sketches, drawings, photographs, descriptions, or other information showing the proposed exterior alterations, additions, changes, or new construction.

9. Action on Applications for Certificates of Appropriateness

- a. The Historic Board of Review may advise and make recommendations to the applicant before acting on an application for a Certificate of Appropriateness.
- b. If an application for a Certificate of Appropriateness:
 - i. Is approved by the Board; or
 - ii. Is not acted on by the Board within 30 days after it is filed, a Certificate of Appropriateness shall be issued by the Building Inspector. If the Certificate is issued, the application shall be processed in the same manner as applications for building or demolition permits required by the city, if any, are processed. If no building or demolition permits are required by the city, the applicant may proceed with the work authorized by the Certificate.
 - iii. If the Historic Board denies an application for a Certificate of Appropriateness within 30 days after it is filed, the Certificate may not be issued. The Historic Board must state its reasons for the denial, in writing, and must advise the applicant. An applicant that has been denied may not be processed as an application for a building or demolition permit and does not authorize any work by the applicant.
 - iv. The Historic Board may grant an extension of the 30 day limit prescribed by divisions (B) and (C) above if the applicant agrees to it.
 - v. A Certificate of Appropriateness permit shall be deemed to authorize the particular changes reflected on the permit. The permit will expire if, for any reason, the change has not commenced within one year, and the construction or alteration completed within 12 months after commencement of the work.

- vi. Certificates of Appropriateness shall be granted if the Historic Board determines that the proposed action is not obviously incongruous with the historic district and shall not be granted if the proposed action is obviously incongruous with the historic district. In determining whether a particular proposal is obviously incongruous with the historic district, the Historic Board shall take into account the purposes of this chapter, the visual compatibility standards contained in this chapter, the historic and architectural significance of the structure and the effect of the proposed change in diminishing or enhancing the significance, the effect of the proposed change on the streetscape, the effect of the proposed change on surrounding structures, and the effect of the proposed change on the district as a whole. The Historic Board shall act in a manner which preserves the visual aspects of the architectural and historic character of the district by assuring that obviously incongruous changes are not allowed.

10. Development Standards

1. A historic building or structure, or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs, may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.
2. A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with division (a) above.

11. Preservation Rights, Demolition, and Appeal

The purpose of this section is to preserve historic districts that are important to the education, culture, traditions, and economic values of the city and to afford the city's historical organizations, and other interested persons, the opportunity to acquire or to arrange for the preservation of these buildings.

1. If a property owner shows that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the Historic Board of Review fails to approve the issuance of a Certificate of Appropriateness, the building may be demolished. However, before a demolition permit is issued or demolition proceeds, notice of proposed demolition must be given for a period fixed by the Historic Board, based on the Board's classification on the approved map, but not less than 60 days nor more than one year. Notice must be posted on the premises of the building proposed for demolition in a location clearly visible from the street. In addition, notice must be published in accordance with Indiana State Code.

2. The Historic Board may approve a Certificate of Appropriateness at any time during the notice period. If the Certificate is approved, a permit for demolition shall be issued without further delay and demolition may proceed.
3. A decision of the Historic Board is subject to judicial review as if it were a decision of a state agency.

12. Maintenance

Historic buildings shall be maintained to meet the applicable requirements established under statute for buildings generally.

13. Visual Compatibility

The construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any nonhistoric building, structure, or appurtenance within the primary area must be generally of a design, form, proportion, mass, configuration, building material, texture, color, and location on a lot compatible with buildings in the historic district, particularly with buildings designated as historic, and with squares and places to which it is visually related.

14. Visual Compatibility Factors

Within the primary area of the historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares, and places to which they are visually related generally in terms of the following visual compatibility factors.

1. Height. The height of proposed buildings must be visually compatible with adjacent buildings.
2. Proportion of building's front façade. The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.
3. Proportion of openings within the facility. The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
4. Rhythm of solids to voids in front facades. The relationship of solids to voids in the front façade of a building must be visually compatible with buildings, squares, and places to which it is visually related.

5. Rhythm of spacing of buildings on streets. The relationship of a building to the open space between it and adjoining buildings must be visually compatible to the buildings, squares, and places to which it is visually related.
6. Rhythm of entrances and porch projections. The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to the buildings, squares, and places to which it is visually related.
7. Relationship of materials, texture, and color. The relationship of the materials, texture, and color of the façade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
8. Roof shapes. The roof shape of a building must be visually compatible with the buildings to which it is visually related.
9. Walls of continuity. Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.
10. Scale of a building. The size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.
11. Directional expression of front elevation. A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

15. Signs in Historic Districts

As in the case of structural alteration, new construction, and demolition, all new signage or alterations to signage shall be required to receive a Certificate of Appropriateness. The resulting high quality in both sign design and construction will strengthen the integrity of the historic district. Generally, signs may be permitted by the Historic Board in those parts of historic districts which are classified as business or industrial in the zoning code, except for home occupation uses or certain special exceptions. To afford control, the Historic Board of Review will review and approve all proposed signs and changes to signs as to their appropriateness within the historic district. Each sign application shall be reviewed as a unique case, subject to the following criteria which shall include but not be limited to the following:

1. Allowable sign types.

- i. Flat signs. These signs always exist parallel to the building façade. They shall not be painted directly on the building surface, but shall be painted on a separate background material and applied to the façade as a unit.
- ii. Dimensional surface signs. This sign type also exists parallel to the building façade. It may consist in part (or in whole) of three-dimensional letter forms applied directly to the building surface, or applied to a separate flat background. The message may be in relief, or depressed by means of carving, etching, routing, positive or negative cutout, and the like.
- iii. Awnings. Awnings can act as an effective and decorative way to display a sign. Sign messages should be limited to the front drop flat of the awning, and might be achieved as sewn appliqué or inset, or by painting or silk screening. Awning fabrics must be carefully chosen to coordinate well with the character of the building, and with adjoining buildings and awnings. The bottom of any awning shall be at least seven feet above its sidewalk.
- iv. Projecting signs. Projecting signs, except those on a corner, are those which exist 90 degrees to the building surface. In many instances, the signs' shapes could be the most effective way to express a particular service or activity. For example, the familiar shoe shape to denote shoe repair. These signs need not be thought of as strictly flat, but could have dimension. A creative approach to the hanging hardware for such signs is also encouraged, but it must be designed for maximum strength. Signs must connect to sturdy wall bracket units with an adequate gauge of steel or iron strap or chain.
- v. Banners. Banners may serve as "soft" versions of projecting signs (that is, bearing a message or symbol which relates directly to the business) or simply as decorative additions.
- vi. Temporary signs. A temporary sign, valance, or display is defined as one being seasonal in nature or as one having a duration of not more than eight weeks. A temporary sign, valance, or display will be evaluated relative to its size, material, its method of attachment, and its ease of maintenance and cleaning. These signs will be considered temporary and revocable and subject to review.

2. Location and size:

- i. Flat or dimensional surface signs. Flat or dimensional surface signs shall not protrude from the primary building façade surface more than 12 inches.
- ii. Perpendicular-to-building signs. Perpendicular-to-building signs shall not exceed nine (9) square feet in area, nor shall they extend below a point eight (8) feet from the sidewalk surface, nor out from the façade surface more than 54 inches.
- iii. Materials. Materials such as wood, wrought iron, steel, metal, grill-work, and so forth, which were used in the nineteenth century, or replicas thereof, are

encouraged. Materials such as extruded aluminum and plastics, while not prohibited, may not be appropriate. Simplicity and restraint in material selection, its method of application, or its detail construction, should be consistent with the other criteria.

- iv. Method of attachment. The sign's attachment should respect the architectural integrity of the structure and relate to or become an extension of the architecture. For example, a sign utilizing an archway should reflect the archway in its configuration.
3. Illumination.
 - i. Signs may appear without illumination or may be illuminated. Lighting source, design, and placement must be as unobtrusive as possible, and the proposed method of lighting is also subject to review by the Historic Board.
 - ii. Generally, signs which flash, blink, revolve, or are otherwise in motion, vary in intensity, or appear to be in motion, will not be permitted within the historic district. These illumination methods may be accepted by the Historic Board, however, if they are deemed appropriate in a particular circumstance, for example, the traditional rotating barber pole.
 - iii. In general. Signs in the historic districts which are located in areas classified in the business or industrial districts in the zoning code shall be of a simple design and conform to regulations set forth herein, except that in no case will the following be allowed:
 1. Roof-top signs;
 2. Free-Standing signs or pylons which intrude on public property;
 3. Billboards;
 4. Signs with an accumulated total of more than 100 square feet per establishment or more than 10% of the ground floor area of the wall surface.

16. Street Furniture and Utilities

1. Where possible, and subject to the requirements of the Board of Public Works and Safety, all new utility lines shall be underground in the historic district.
2. All light standards placed in the front yard of any structures or premises shall be of a design which is compatible with lighting throughout the historic district, and subject to the approval of the Historic Board of Review.
3. The design and location of all items of street furniture must be approved prior to placement and subject to the approval of the Historic Board. Similar designs should be used throughout the historic district.

17. Enforcement of Historic Code

1. Whenever the Historic Board finds that the owner of property in any historic district has neglected to keep the property and premises in a clean, sanitary, and tidy condition, or has failed to maintain any structure in good state of repair and in a safe condition, the Historic Board may give the owner written notice to correct the failures or violations within thirty (30) days after receipt of notice, and if the owner fails to comply, then the Historic Board may bring appropriate enforcement actions as provided by Section 19.
2. Enforcement. It shall be the duty of the Building Inspector to enforce this chapter of the code. He shall receive applications required by this code and furnish the prescribed Certificates of Appropriateness. He shall examine areas for which permits have been issued, and he shall make necessary inspections to see that the provisions of this code are being upheld. He may be provided with the assistance of the Chief of Police in enforcing orders and the City Attorney in prosecuting violations.
3. Building Inspector's duties: For the purpose of this chapter of the code, the Building Inspector shall have the following duties:
 - i. Upon finding that any of the provisions of this chapter of the code are being violated, he shall notify in writing the person responsible for the violation, ordering the action necessary to correct the violation;
 - ii. Order discontinuance of any illegal work being done;
 - iii. Order removal of illegal buildings and structures or illegal additions or structural alterations; or
 - iv. Take any other action authorized by this code to ensure compliance with or prevent violation of this code. This may include the issuance of Certificates of Appropriateness and such similar administrative duties as are permissible under the law.

18. Filing Fees and Forms

1. Applications and petitions shall be prepared on the forms provided by the Building Inspector, and accompanied by the filing fees herein specified, and shall be submitted to the Building Inspector who shall forthwith pay over the fees to the Clerk-Treasurer to the credit of the general fund of the city.
2. Until all applicable fees have been paid in full, no application shall be filed or processed by the Building Inspector.
3. No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner, unless specifically authorized by the Common Council. In

addition to the fees set forth herein, the applicant or petitioner shall pay the cost of publication notices and due notices to interested parties.

4. Applications for the following shall be accompanied by the following fees:

- | | |
|-----------------------------------|------|
| i. Certificate of Appropriateness | \$25 |
| ii. Demolition Permit | \$50 |

19. Nonconforming Uses

Any building, structure, or land use in existence at the time of the adoption of the historic revitalization plan that is not in conformity to or within the zoning classification or restrictions or requirements or architectural standards of this plan shall be considered to be a nonconforming use and may continue, but only so long as the owner or owners continuously maintains or maintain this use.

20. Penalty and Remedy

1. Remedy. The Historic Board of Review or Building Inspector or any enforcement official of the city designated by the Historic Board, may enforce this chapter of the code and any covenants or conditions required or imposed by the Historic Board by civil action in the circuit and superior court. Any legal, equitable, or special remedy may be invoked, including mandatory or prohibitory injunction or a civil fine. These enforcement actions (except those seeking a civil fine) may also be brought by any interested person or affected owner.
2. Penalty. Any person or corporation in violation of this section may be punished subject to the provisions of I.C. 36-1-3-8, specifically: a fine of not more than \$2,500 for a violation of this chapter of the code.

M. PUD, PLANNED UNIT DEVELOPMENT DISTRICT

1. Intent and Purpose

The basic intent of these PUD regulations is to replace the usual development approval process, involving rigid use and bulk specifications, with more flexible procedures involving a PUD plan submitted by a developer and approved by the City. These regulations recognize that, while the standard zoning functions (use and bulk) and the standard subdivision functions (platting and design) are appropriate for the regulation of land uses in areas or neighborhoods of the community that are already substantially developed, these controls represent a type of pre-regulation and regulatory rigidity which would frustrate the application of the PUD concept. Thus, where PUD techniques are permitted, the normal use and dimensional specifications contained elsewhere in this Ordinance and applicable to the respective zoning districts are replaced by an approval process in which the approved plan becomes the basis for continuing land use controls. Planned Unit Developments do not necessarily correspond in minimum lot size, type of dwelling unit, density, lot coverage, or required open space, to any other residential district requirements. The purpose of this Section is to improve and protect the public health, safety and welfare by pursuing the following objectives:

- a. To ensure the future development is in accordance with the Comprehensive Plan;
- b. To encourage innovations in land development and redevelopment;
- c. To foster the safe, efficient, and economic use of the land, transportation, public facilities, and services;
- d. To facilitate the provision of adequate public services such as transportation, water, sewer, storm, drainage, electricity, and public parks;
- e. To avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;
- f. To encourage patterns of land use which decrease trip length of automobile travel and encourage trip consolidation;

- g. To minimize adverse environmental impacts of development;
- h. To improve the design, quality, and character of new development, and encourage the provision of open space within such developments;
- i. To foster a more rational pattern of relationship between residential, commercial, and industrial uses;
- j. To protect existing neighborhoods from harmful encroachment by intrusive or disruptive development.

2. Applicability and Ownership

The PUD zoning district shall be applicable to any proposed major subdivision with a gross area of fifty (50) acres or more. Additionally, the PUD zoning district may be applicable to any area where the applicant can demonstrate that this proposal will meet the objectives of this Ordinance. Any proposed major subdivision where proposed development standards such as lot size, lot width, density, and setbacks do not meet the underlying zoning district requirement must follow the PUD process indicated herein. The entire tract of land involved in a PUD application must be under the control of the applicant, which may be a single person, entity, corporation, or a group of individuals, entities, or corporations. An application must be signed by the owner or owners of the land included in the tract. In the case of multiple ownership, the approval plan shall be binding on all owners.

3. Inclusion of Acreage Remainder

If contiguous land owned by the applicant(s) of a proposed PUD is significantly less than the minimum amount of acreage required for a PUD, and said land would, in the Commission's opinion, be rendered undevelopable by approval of the proposed PUD, the Commission may require the contiguous land to be included in the proposed PUD.

4. Permitted Uses

Residential uses may be of a variety of types in order to promote development of a balanced community. Commercial and other non-residential uses may be included in a PUD, subject to approval by the Commission. Such uses, their locations, and commercial area designs, shall be compatible with residential uses. Manufacturing uses are prohibited in a PUD where residential uses are proposed. The classification of manufacturing uses shall be as set forth in the M-1 and M-2 provisions of this Ordinance.

5. Land Use Intensity and Design

a. Residential Densities

- i. Overall-The maximum residential density for the overall project shall be no more than twenty-five percent (25%) greater than the density allowed in the underlying zoning district, computed by comparing the total number of dwelling units to the gross land area of the project.
- ii. Sections-The maximum residential density for any particular section shall be no more than fifteen (15) units per acre, computed by comparing the number of dwelling units within a particular section to the gross land area of that particular section.

b. Land Use Ratios

- i. Commercial-Commercial uses may occupy up to a maximum of fifty (50) percent of the gross land area in a residential PUD.
- ii. Industrial-Industrial uses are not permitted in a PUD where residential uses are proposed.
- iii. Residential-Area not devoted to commercial or open space area shall be devoted to residential uses. Where a PUD borders an existing single-family use or a district zoned as A-1, AC, RR, R-1, or R-2, the two-family and multi-family portions of the PUD shall be developed more toward the interior rather than the periphery of the tract so that single-family detached residences border the adjacent single-family use or A-1, AC, RR, R-1, or R-2 district.
- iv. Recreation and open space-There shall be at least twenty percent (20%) of the gross land area in a PUD that provides for common open space. Street rights-of-way, parking areas, slopes exceeding fifteen percent (15%), floodways, and structures for habitation shall not be included in open space area calculations. No more than forty (40) percent of this open space shall be covered by water. Where a PUD is to be developed in phases, a portion of the required open space shall be provided in each phase. Open space features considered eligible for inclusion in the required twenty percent (20%) include the following:
 - (a.) Woodlots, arboreta, and other similar silvicultural uses;
 - (b.) Woodland preserves or other similar conservation uses;
 - (c.) Public park or recreation areas owned and operated by a public or private nonprofit agency, not to include business facilities, storage of

materials, trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills.

- (d.) Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenway land or five (5) acres, whichever is less. Playing fields, playground, and courts shall not be located within one hundred fifty (150) feet of abutting properties. Parking facilities for the same shall also be permitted, and shall generally be gravel-surfaced, unlighted, and properly drained; provide safe ingress and egress; and contain no more than ten parking spaces.
- (e.) Golf courses may constitute up to half of the minimum required greenway land, but shall not include driving ranges or miniature golf. Parking areas and any associated structures shall not be included within the percentage of required minimum greenway. Parking and access ways may be paved and lighted.
- (f.) Easements for drainage, access, sewer or water lines, or other public purposes. Street rights-of-way may traverse conservation areas but shall not count toward the minimum required greenway land.
- (g.) Detention or retention ponds

6. Development Standards

Minimum lot size, setback, and lot width are not specifically regulated by this section except as set forth her.

- a. No residence or principal building shall be closer than fifteen (15) feet to any other residence or principle building.
- b. All residential structures shall be set back from the perimeter of the total tract by at least twenty (20) feet.
- c. Commercial structures shall be separated from any residential structure by a minimum of fifty (50) feet.
- d. Maximum building height shall be as set forth in the underlying zoning district.
- e. Parking in a PUD shall meet the parking requirements set forth in this Zoning Ordinance.

For all other standards the Commission may be guided by standards set elsewhere in this Ordinance for comparable conditions and by common good practice.

7. Common Open Space

Common property in a PUD is a parcel of land, together with any improvements thereon, the use and enjoyment of which are shared by owners and occupants. When common property exists, the ownership of such common property may be either public or private, and satisfactory arrangements shall be made for the improvement, operation, and maintenance of such common property and facilities, including private streets, drives, service and parking areas, and recreational and open space areas. The landowner or applicant shall provide for and establish an organization for the ownership and maintenance of any private common open space, and such organization shall not be dissolved nor shall it dispose of any common open space.

8. Utilities and Streets

All utilities, including communication and electrical systems, shall be placed underground within the limits of a PUD. Appurtenances to these systems may be expected. The design and designation of all streets, public or private, shall be subject to the approval of the Commission. Minimum pavement construction and dimension standards shall be as set forth in the Subdivision Control Ordinance.

9. Covenants and Maintenance

There shall be established covenants and other similar deed restrictions which provide for the control and maintenance of all common areas, recreation facilities, and open spaces. If any open space or recreation facility is to be used solely by the residents of the PUD, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.

10. Improvements

The petitioner shall provide financial assurance for the satisfactory installation of all facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Subdivision Control Ordinance.

11. Procedure for Approval

The authorization of a PUD shall require approval of a sketch plan, preliminary plan review by the Plan Commission, preliminary plan review by the City Council

and zoning map amendment and final plan review by the Plan Commission as stipulated in this section.

a. Neighborhood Meeting

Prior to application for sketch plan review by the Technical Review Committee, the applicant shall have conducted a neighborhood meeting to present the proposed PUD to those same nearby residents who will later be required to be informed of the necessary public hearings regarding the PUD. The notice shall take the form of first-class airmail to surrounding property owners within six hundred (600) feet of the parcel, or two (2) property owners, whichever is greater. The applicant shall certify, by notary public, that notification of surrounding property owners has been accomplished as required. The applicant shall then present the notarized document, the list of property owners, and a copy of the mailed notice to the Planning Office upon application for sketch plan review. The purpose of such a neighborhood meeting before filing is to allow the applicant to address significant remonstrator issues before completion of major engineering design work, thereby possibly shortening the length of review while protecting area residents.

b. Sketch Plan

Upon application by the owners of the area involved in a PUD petition, a sketch plan for the PUD shall be presented to the Planning Office for staff review. Two (2) copies of a sketch plan shall be submitted, drawn approximately to scale but not to the precision of a finished engineering drawing, showing the following:

- i. The existing topographical features of the site;
- ii. General map of the watershed in which the project is located;
- iii. General outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private;
- iv. Delineation of the various residential and non-residential uses, indicating for each area its general extent, size, and composition in terms of total number of dwelling units and approximate percentage of allocation by dwelling unit type;
- v. Calculation of the residential density in dwelling units per gross acre, including interior roadways;
- vi. The interior open space system;

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- vii. Extent and frequency of flooding on portions of the site subject to flooding;
 - viii. Principal ties to the community at large with respect to transportation, water supply, and sewage disposal;
 - ix. General description of the availability of other community facilities such as schools, fire protection, and cultural facilities, if any, and how these facilities are affected by the proposal;
 - x. General statement of how common open space is to be owned and maintained;
 - xi. If the development is to be stage, a general indication of how the staging is to proceed;
 - xii. Proposed deed covenants, in general terms, proposed to be made part of the PUD.
- c. Preliminary Plan Review by the Plan Commission
- i. Procedure

After review of the sketch plan by the staff, the petition shall be forwarded to the Plan Commission for review. The petition shall be accompanied by the written recommendations of the staff and any other comments from coordinating agencies.
 - ii. Application Filing

Application for Preliminary Plan Review approval shall be submitted to the Plan Commission. The proposed plan any supporting documents shall be filed with the Commission office at least ten(10) days in advance of the public hearing at which the plan is to be reviewed.
 - iii. Public Notification

Notification shall be as stated in this Zoning Ordinance.
 - iv. Submission Requirements

Twelve (12) copies of the Preliminary Master Plan shall be filed. The plan shall be prepared by a licensed engineer, surveyor, architect, or landscape architect, at a scale of not more than one hundred (100) feet to the inch. The plan and supporting documents shall show the following:

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- (a) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivision, streets and easements within six hundred (600) feet of the applicant's property;
- (b) A topographic map of the entire area showing contour intervals of not more than two (2) feet of elevation;
- (c) Name of project, name and address of applicant, and name, address and seal of professional preparer;
- (d) North point, scale, and date;
- (e) Existing and proposed watersheds, water courses and water bodies;
- (f) Areas of the sites subject to flooding, including delineation of the 100-year flood boundary;
- (g) Street layout and design, including all existing rights-of-way and easements, whether public or private;
- (h) Proposed site development densities and uses for the overall tract and within each phase;
- (i) General description of the availability of community facilities such as schools, fire protection services, and cultural facilities, if any, and how these facilities are affected by the proposal;
- (j) The open space plan and planned sites for recreation areas, community centers, schools, and similar improvements, where applicable;
- (k) Location of all existing and proposed improvements, including drains, ditches, culverts, retaining walls, and fences; location and description of method of sewage disposal and water supply; location and size of all signs (street name, traffic control, and permanent community signs); location and design of street and parking lighting; and the amount of building area proposed for non-residential uses, if any;
- (l) A plan for phasing the construction of the project. It is the intent of this section that the tempo and sequence of development in a PUD be such that land uses that provide only moderate school revenues, yet require large municipal and school service costs are scheduled simultaneously with those that provide larger local revenues yet which are not as costly to service;

- (m) Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of development, the design of the building, and the number, size, and type of dwelling units;
- (n) A general landscaping plan for the site showing landscape intent, types of plant material to be provided, and intensity and scale of landscaping with site details where appropriate to fully explain the concept. The landscaping plan shall be provided at the same scale as the overall development plan;
- (o) The application shall certify that a professional consultant is being utilized in the planning procedures. Said consultant shall be involved in the application procedures.

v. Factors for Consideration

Plan Commission review of a Preliminary Master Plan shall include, but not be limited to, the following considerations:

- (a) Adequacy and arrangement of vehicular traffic areas and circulation, including intersections, road widths, channelization structures, signs, and traffic controls;
- (b) Adequacy and arrangement of pedestrian traffic areas and circulation, separation of pedestrian from vehicular traffic, and pedestrian convenience;
- (c) Location, arrangement, appearance, and sufficiency of off-street parking and loading;
- (d) Location, placement, and size of buildings, lighting, and signs;
- (e) Type and arrangement of landscape features;
- (f) Adequacy, location, and size of storm sewer and sanitary waste disposal facilities;
- (g) Adequacy of structures or roadways in areas with moderate to high susceptibility for flooding, ponding, or erosion;
- (h) Possible adverse effects on property adjacent to the development;
- (i) In its review, the Commission may consult with the City Engineer, Street Department or other departments or officials, as well as with

Federal and State agencies such as the Indiana State Board of Health and the Department of Natural Resources, among others.

vi. Covenants and Maintenance

- (a) All covenants, required by the Plan Commission, shall be set forth in detail and shall be suitable for recording. Such covenants shall provide that their benefits run with the land and shall be specifically enforceable by the Plan Commission in addition to the property owners.
- (b) The Plan Commission shall require the recording of covenants for any reasonable purpose, including, but not limited to, imposing standards for development of property in a Planned Unit Development. Such development standards may include, but are not limited to, requirements as to the following items:
 - Lot area
 - Floor Area
 - Ratios of floor space to land space
 - Buildable Area
 - Open Space
 - Setback lines and minimum yards
 - Building separations
 - Height of structures
 - Signs
 - Parking
 - Design Standards (including landscaping requirements)
 - Project phasing
 - Sidewalks, trails, and connections between other developments
- (c) Adequate provision shall be made for the establishment of a Homeowners Association to provide for maintenance and operation of all common facilities. Legal assurances shall be provided and recorded which show that the HOA is self perpetuation.
- (d) If private streets are approved, they shall be maintained by the HOA in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation and public utility vehicles can serve properties in and contiguous to the subject parcel. All streets not dedicated to the public shall be operated and maintained at no expense to any governmental agency.

vii. Concurrent filing of a Final Plan

If the Preliminary Plan expresses Development Standards in detailed terms, the Petitioner may also request a Secondary Review of a Final Plan by the

Plan Commission. However, approval of a Final Plan by the Plan Commission shall be conditioned upon the City Council adopting the Zone Map Amendment for the Planned Unit Development. The requirements for a Final Plan Approval are set forth below. Approval of the Final Plan by the Plan Commission shall be required prior to the issuance of a permit for any development pertinent to the Planned Unit Development.

d. Preliminary Plan Review by the City Council and Zoning Map Amendment

Within thirty (30) days of the public hearing, the Plan Commission shall forward its written findings and recommendation to the City Council. The City Council shall consider the petition for the Planned Unit Development in accordance with its procedures for amending the Zoning Map set forth in this Ordinance.

e. Final Plan Review by the Plan Commission

i. Filing of a Final Plan for Review by the Plan Commission

If the final Plan approval is not obtained jointly with the petition for Preliminary Plan approval and Zoning Map Amendment, the petitioner shall have a period of up to two (2) years from the date of the approval of the Preliminary Plan and Zoning Map Amendment to file a Final Plan for the Planned Unit Development. If the final Plan is submitted in phases, each subsequent phase shall be filed for within one (1) year of the prior phase's approval.

ii. Public Notification

Notification shall be as stated in this Zoning Ordinance

iii. Submission Requirements

Twelve (12) copies of the Final Master Plan shall be filed. The plan shall be prepared by a licensed engineer, surveyor, architect, or landscape architect, at a scale of not more than one hundred (100) feet to the inch. The plan and supporting documents shall show all requirements of the Preliminary Master Plan submission, plus the following:

- (a) A street numbering designation for each building;
- (b) Infrastructure improvement, including construction details, showing centerline elevations, pavement type, curbs, gutters, culverts, etc.;
- (c) A detailed landscaping plan for the site, including a plant list containing common and botanical names, sizes at the time of installation and maturity, and quantities of plant materials;

- (d) A sign and lighting plan, showing all permanent signs and sign easements, and site lighting and street fixtures;
- (e) Common open space documents detailing proposed maintenance agreements;
- (f) Guarantees for the completion of all required improvements and facilities;
- (g) Restrictive covenants, if required or proposed;
- (h) Any information required by the Board of Commissioners during Preliminary Master Plan approval.

iv. Determination by the Plan Commission

A determination by the Plan Commission on whether or not to approve a Final Plan shall be made at a public hearing of the Plan Commission.

v. Modifications to an Approved Preliminary Plan

The Final Plan shall be in a substantial compliance with the approved Preliminary Plan. The Plan Commission may, however, as part of its determination to approve a Final Plan, authorize modifications to the permitted uses or the development requirements or standards specified in an approved Preliminary Plan which do not substantially change the design or intent.

vi. Expiration of Planned Unit Development

In the event that the Final Plan approval is not obtained for all or a portion of the Project within the time frames outlined above, the Preliminary Plan shall be deemed expired for that portion of the Project that has not received Final Plan approval. Once a Preliminary Plan has expired for any portion of the Planned Unit Development, no development shall occur within the expired portions until:

- (a) A new Preliminary Plan is recommended for approval by the Plan Commission to the legislative body at a public hearing, notice of which shall be given in the same manner as for a petition for Zoning Map Amendment.
- (b) Such a new Preliminary Plan is approved by the legislative body; and
- (c) The Plan Commission approves a Final Plan in accordance with the requirements of this article.

vii. Major Modification to an Approved Planned Unit Development Ordinance

If the Plan Commission determines that a proposed modification is of such nature as to adversely impact the purpose or intent of the overall project, the modifications shall be deemed major. In this case, the petitioner shall then be required to file a new petition for Preliminary Plan approval and Zone Map Amendment.

12. Extensions and Abandonment

a. Extensions of Time

Extension of time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for a good cause shown. Staff may, for good cause shown, grant extensions of time, in six (6) month increments not to exceed a total of two (2) years, for obtaining final Plan approval. In the event that Staff disallows a requested extension, the petitioner may appeal said determination to the Plan Commission within thirty (30) days of being notified of such determination.

b. Abandonment

Abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved final Plan for twenty four (24) consecutive months, or upon the expiration of three (3) years from the date of approval of the Final Plan. An amendment may be initiated as provided by law to the zoning map so that the land will be zoned into a category or categories that most nearly approximate its then existing use or such other zoning category or categories that the legislative body deems appropriate.

13. Recording

a. Recording Prior to Construction

All approved plans and plats and any modifications thereof, for any Planned Unit Development shall be recorded in the office of the County Recorder before any development work takes place.

b. Recording after Construction is Completed

Upon completion of all development, the exact measurements, as to the location of buildings and structures erected during the development, are

deemed desirable for public record and the recording thereof, the developer shall submit a copy of the approved Final Plan, as amended, to the Planning Office for review to insure compliance with the approved plans. The developer shall then record the documents.

14. Financial Assurance

The petitioner shall provide financial assurance for the satisfactory installation of all public facilities in the form of bonds or any other assurances as are required. These shall be in the form as detailed in this Ordinance.

15. Construction Plans

Construction plans shall be drawn up and approved as set forth in the City of Rushville Subdivision Ordinance.

Section 6-101-4. Zoning District Regulations

Section 6-101-5. DEVELOPMENT STANDARDS

- A. Applicability
 - B. One Principle Building Per Lot
 - C. Accessory Uses and Structures
 - D. Essential Services
 - E. Outdoor Storage of Vehicles and Other Materials
 - F. Visual Clearance on Corner Lots
 - G. Temporary Uses of Land and Structures
 - H. Performance Standards
 - I. Outdoor Storage and Display
 - J. Permitted Obstructions in Required Yards
 - K. Front Setbacks for Developed Residential Areas
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A. APPLICABILITY

All uses shall comply with the following development standards in the interest of protecting public health, safety and welfare, and lessening injury to property. No use in existence on the effective date of this Ordinance shall be so altered or modified as to conflict with these standards.

B. ONE PRINCIPAL BUILDING PER LOT

No more than one (1) single-family or two-family dwelling unit shall be constructed on any lot, tract, or parcel of land. Each distinct business use shall occupy a separate lot, excepting strip centers, mall, or buildings containing more than one business.

C. ACCESSORY USES AND STRUCTURES

1. Accessory uses and structures are permitted in all zone districts in accordance with the provisions of this Section. Accessory uses and structures shall be incidental and subordinate to, and commonly associated with, the operation of the principal use of the property; and shall be operated and maintained under the same ownership and on the same property, or on adjoining property under the same ownership, as the principal use. Accessory uses shall be clearly subordinate in height, area, bulk, extent, and purpose to the principal use serve, shall not exceed fifty (50) percent of the square footage of the principal building, and shall not exceed fifteen (15) feet in height. Accessory structures shall not contain a dwelling, habitable room or rooms.
2. Fences, hedges, walls, driveways, curbs, retaining walls, lattice work, screens, trees, flowers, plants, mail boxes, nameplates, lamp posts, bird baths, benches, landscaping, and the like, are permitted in any required front, side, or rear yard, provided they do not violate the requirements of this Ordinance.

D. ESSENTIAL SERVICES

Essential services shall be allowed in any district insofar as permitted, authorized, or regulated by law or other ordinance. Buildings required in conjunction with an essential service may be permitted in any district when approved by the Director. In granting such permission, the Director shall take into consideration the location, size, use, and effect such building will have on adjacent land and buildings.

E. OUTDOOR STORAGE OF VEHICLES AND OTHER MATERIALS

1. No unlicensed, inoperable, or partially dismantled vehicle may be stored on a property in a residential or manufacturing zoning district.
2. No person shall dump or allow the accumulation of solid waste on his/her property with the exception of compost piles and materials defined as inert solid waste to be used during fill operations and not for long-term storage.
3. No person shall dump any solid waste or inert solid waste along City streets or within City property except in an approved and property permitted solid waste disposal facility.
4. Within the city limits, one (1) motor boat, trailer or recreational vehicle may be stored in the side or rear yard on a hard surfaced drive. Such vehicles, parked or stored, shall not be connected to water, gas, or sanitary sewer facilities, and shall not be used for living or housekeeping purposes.
5. Parking or outdoor storage of trucks and/or trailers over one (1) ton rated capacity, step vans, cargo vans, buses, mobile homes, or manufactured units, except temporary parking for the delivery of goods and/or services, shall not be permitted within the city limits.
6. Construction dumpsters or containers that are to be left in an alley or street overnight must receive approval from the Rushville Street Department and be marked with reflective or lighted barricades or barrels.

F. VISUAL CLEARANCE ON CORNER LOTS

1. No fence, wall, hedge, tree, shrub, or other object which obstructs sight lines and elevations between two and one-half (2.5) and seven (7) feet above the street shall be placed, planted, or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points thirty-five (35) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.
2. The same sight line limitations defined in Section F.1, above, shall apply to any area within ten (10) feet of the intersection of a street right-of-way line with the

edge of any driveway pavement or alley line. No portion of a private driveway for a corner lot shall be permitted on dedicated rights-of-way within seventy (70) feet of the centerline intersections of streets adjacent to the corner lot.

G. TEMPORARY USES OF LAND AND STRUCTURES

1. General Regulations

A permit for a temporary structure or land use such as a carnival, revival meeting, construction facility, seasonal sale, or use of a similar nature (not including mobile homes) may be issued by the Director provided the following conditions are met:

- a. The use is, in fact, temporary and will terminate at a specific time as determined by the Director.
- b. The proposed site is of adequate size to accommodate the use without creating congestion in the streets or inadequate circulation for fire and other emergency vehicles.
- c. Adequate access and off-street parking facilities shall be provided which shall not interfere with traffic movement on adjacent streets.
- d. No banners, pennants, or noise-producing devices of a disruptive nature shall be permitted in a residential district.
- e. Outdoor lighting shall be shielded or directed away from adjoining residential property and streets.
- f. Neighboring uses shall not be adversely affected.
- g. The property shall be returned to its original condition, devoid of temporary use remnants, upon termination of the temporary use period.

2. Regulations Specific to Particular Temporary Uses

- a. Sales offices, model homes, or model apartments may be approved for a maximum allowable approval period of twenty-four (24) months. Any requested extension must be submitted for Board of Zoning Appeals review two (2) months prior to the expiration of the original approval. A maximum of two (2) such uses shall be permitted per subdivision section at any one time.
- b. Parking lots designed for a special event in any zoning district may be approved for a maximum of thirty (30) days.
- c. Yard sales for the purpose of relieving of household goods and wares, operated from residential property, are considered permitted accessory uses to a

residence in any zone, provided the sale is held no more than two (2) times in any calendar year per address, nor more than one (1) time in any one month, with a duration of no more than three (3) consecutive days. No permit is required.

d. Temporary Occupancy of Permanent Structures

In cases where a property owner lives in an existing permanent residential structure and wishes to construct a new permanent residential structure on the same property to serve as the same property owner's living quarters, the property owner may continue to reside in the existing residential structure provided that the following conditions prevail:

- i. The applicant intends to build a permanent home on the premises within twelve (12) months. The applicant, in demonstrating an intent to construct a permanent home and as a condition of receiving a building permit for the proposed residence, must:
 - (A). Supply proof of ownership of the premises;
 - (B). Supply a copy of the approval of the existing septic system from the Rush County Health Department, or supply a copy of a sewer hook-up permit from the appropriate utility;
 - (C). Certify the notification and absence of objection among landowners within six hundred (600) feet or two (2) property owners, whichever is greater, of the site;
 - (D). Provide a performance bond or other security to the City, in an amount equal to one hundred (100) percent of the cost of demolition of the existing residential structure, to ensure removal of that structure.
 - (E). Pay fees for all permits according to the fee schedule approved by the City and County.
- ii. The temporary occupancy permit for the new residence shall expire ninety (90) days after the date of issuance. The old residence shall be removed from the premises by the applicant, and outstanding issues related to the new residence shall be corrected, prior to the expiration of the temporary occupancy permit. A Certificate of Occupancy for the new residence may then be issued.

H. PERFORMANCE STANDARDS

All uses established or placed into operation after the effective date of this Ordinance shall comply with the following performance standards in the interest of protecting public health safety and welfare, and lessening injury to property. No use in existence on the effective date of this Ordinance shall be so altered or modified as to conflict with these standards.

1. Fire Protection

Fire fighting equipment and prevention measures acceptable to the local fire department shall be readily available and apparent when any activity involving the handling or storage of flammable or explosive materials is conducted.

a. Incombustible to Moderate Burning Materials

The storage, utilization, or manufacture of materials or products ranging from incombustible to moderate burning, as determined for liquids by a closed cup flash point of not less than 187 degrees Fahrenheit, is permitted subject to compliance with all other applicable performance standards.

b. Free Burning to Intense Burning Materials

The storage, utilization, or manufacture of materials or products ranging from free or active burning to intense burning, as determined for liquids by a closed cup flash point of less than one hundred eighty-seven (187) degrees Fahrenheit but not less than one hundred five (105) degrees Fahrenheit, is permitted subject to compliance with all other applicable performance standards and provided the following conditions are met:

- i. Said materials or products shall be stored, utilized, or produced within completely enclosed buildings or structures having incombustible exterior walls; and
- ii. All such buildings or structures shall be set back at least forty (40) feet from lot lines, in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the American Insurance Association; or if the materials, goods, or products are liquids, the protection thereof shall be in conformity with standards prescribed by the American Insurance Association.

c. Flammable and Explosive Materials

The utilization in manufacturing processes of materials which produce flammable or explosive vapors or gases, determined for liquids by a closed cup flash point of less than one-hundred five (105) degrees Fahrenheit, shall be permitted provided:

- i. That a final manufactured product does not itself have a closed cup flash point of less than one-hundred eighty-seven (187) degrees Fahrenheit;
- ii. That the use and storage of such materials shall be in conformity with standards prescribed by the American Insurance Association and the requirements of any other ordinances;
- iii. That the storage of more than fifty thousand (50,000) gallons of materials or products having a closed cup flash point of less than one hundred eighty (180) degrees Fahrenheit (exclusive of storage of finished products in original sealed containers) is prohibited;
- iv. That the storage of more than one hundred thousand (100,000) gallons of materials or products having a closed cup flash point of less than one hundred eighty (180) degrees Fahrenheit (exclusive of storage of finished products in original sealed containers) is prohibited.

2. Heat

Any operation producing intense heat shall be conducted within a completely enclosed building in such a manner so as not to create public nuisance or hazard.

3. Radiation Hazards

All operations using or storing radioactive materials, whether or not licensed by the Atomic Energy Commission, shall comply with all applicable Federal, State, and local statutes.

4. Electrical Disturbance

In all districts, no use, activity, or process shall be conducted which produces electric and/or magnetic fields which adversely affect public health, safety, and welfare, including, but not limited to, interference with normal radio, telephone, or television reception from off the premises where the activity is conducted.

5. Noise

- a. No use shall produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, shrillness, or vibration, based on the Maximum Permitted Sound Levels table in subsection 5.b., below. Said noise shall be muffled or otherwise controlled so as not to become detrimental, provided however, that public safety sirens and related apparatus used solely for public purposes, as well as agricultural used, athletic events, fairs, concerts, construction activities, fireworks displays, and like events, shall be exempt from this standard.
- b. Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American National Standards Institute, ANSI S1.2-1962 "American Standards Meter for the Physical Measurement of Sound." Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed, provided that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this Section, shall be those noises which cause rapid fluctuations of the needle of the sound level meter, with a variation of no more than plus or minus two (2) decibels. Noises incapable of being so measured, such as those of an irregular or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses. At no point on the boundary of a property in a particular zoning district shall the sound intensity level of any individual operation or plant exceed the decibel levels in the designated octave bands described in the following table. Where the emitting and receiving premises are in different zoning districts, the limits governing the more restrictive district shall apply to any regulated noise entering that district.

	Maximum Permitted Sound Level (Decibels)		
Octave Band (Frequency cycles per Second)	Within Residential Districts	Within Business Districts	Within Industrial Districts
1 to 75	72	75	75
75 to 150	67	70	74
150 to 300	59	63	69
300 to 600	52	57	64
600 to 1200	46	52	58
1200 to 2400	40	45	52
2400 to 4800	34	40	47
Above 4800	32	38	43

6. Vibration

No use shall cause vibrations or concussions detectable beyond property boundary lines without the aid of instruments.

7. Smoke and Particulate Matter

The emission of smoke or particulate matter by established commercial or industrial land uses, in such manner or quantity as to endanger or be detrimental to the public health, safety, comfort, or welfare, is not permitted. For the purpose in the grading of the density of smoke, the Ringelmann Chart, published and used by the United States Bureau of Mines, shall be employed. The emission of smoke or particulate matter of a density greater than No. 2 on the Ringelmann Chart is prohibited at all times, except as otherwise provided hereinafter. The emission, from all sources within any lot area, of particulate matter containing more than ten (10) percent by weight of particles having a diameter larger than forty-four (44) microns is prohibited. Dust and air pollution, within lot boundaries, shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing or other acceptable means. The emission of more than eight (8) smoke units (as defined by the United State Bureau of Mines) per hour per stack is prohibited, including smoke of a density in excess of Ringelmann No. 2. However, during one (1) one-hour period in each 24-hour day, each stack may emit up to sixteen (16) smoke units when blowing soot or cleaning flues. Only during fire-cleaning period, however, shall smoke of Ringelmann No.3 be permitted, and then for not more than three (3) minutes.

8. Water and Waste Pollution

There shall be no discharge, at any point, into any sewerage system, or stream, or into the ground, of any materials in such a way or of such a nature or temperature as can contaminate or otherwise cause the emission of hazardous materials except in accordance with applicable State and local Statutes.

9. Lighting

All exterior lighting shall be shielded to avoid casting light above three tenths (0.3) footcandle or glare upon any property located in a residentially zoned district or used for residential purposes, or above one-half (0.5) footcandle or flare upon any non-residential adjacent property. Exceptions to the above shall apply to temporary events such as fairs, athletic events, fireworks displays, or like uses. For all uses, exterior lighting shall be shielded so as not to cast direct light on street right-of-ways. The intensity of illumination shall be measured at the property line.

I. PERMITTED PROJECTIONS IN REQUIRED YARDS

The following projections shall be permitted in required yards, except where easements are located, subject to the conditions and limitations set forth in this Section:

1. Projections Permitted in Front Yards

- a. Awnings and canopies;
- b. Chimneys projecting two (2) feet or less into yard;
- c. Bay windows projecting three (3) feet or less into yard;
- d. Overhanging eaves and gutters projecting three (3) feet or less into yard;
- e. Handicap access ramps located no further than five (5) feet from the structure;
- f. Open porches or stoops projecting six (6) feet or less into front yard.

2. Projections Permitted in Side Yards

- a. All projections permitted in front yards;
- b. Outside stairway, open or enclosed, projecting four (4) feet or less into the yard.

J. FRONT SETBACKS FOR DEVELOPED RESIDENTIAL AREAS

In any residential district where at least fifty (50) percent of the lots, fronting on a particular street section, bounded by the nearest intersecting streets, are occupied by existing residential structures, the minimum depth of a front yard for proposed new residential construction shall not be less than the average of the depths of the front yards of existing residential structures along that street.

Section 6-101-6. REGULATIONS APPLICABLE TO SPECIFIC USES

- A. Swimming Pools
 - B. Home Occupations
 - C. Bed and Breakfast Homes
 - D. Adult Entertainment Facilities
 - E. Confined Feeding Lots
 - F. Recreational Vehicles
 - G. Garage and Yard Sales
 - H. Amateur Radio Support Structures
 - I. Communications Facilities
-

A. SWIMMING POOLS

Swimming pools and hot tubs, as defined by this Ordinance, shall be permitted as accessory structures subject to the following provisions

1. The structure, or the yard in which it is located, or any part thereof, shall be enclosed with a fence or protective barrier of a minimum of five (5) feet in height, measured on the exterior of the fence. All gates within such a fence shall be self-closing and self-locking. In lieu of such an enclosure, the structure may be protected with a secured cover meeting ASTM requirements.
2. Construction and operation shall meet all appropriate municipal, County or State requirements.

B. HOME OCCUPATIONS

A home occupation shall comply with the following:

1. The home occupation shall be carried on by a member of the family residing in the dwelling unit with not more than one employee who is not a part of the family.
2. The home occupation shall be carried on wholly within the principal structure and shall be clearly incidental and subordinate to its use for residential purposes by its occupants. No more than twenty-five (25) percent of the gross floor area of any dwelling unit shall be used for a home occupation.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. Signage shall be prohibited.
4. Levels of noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare in amounts greater than those normally associated with domestic use shall not be produced.

5. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive or other restrictive materials shall be used or stored on the site in amounts greater than those normally associated with domestic use.
6. Vehicles associated with the home occupation shall be limited to the following:
 - a. Not more than one (1) vehicle shall be used for the purposes of the home occupation.
 - b. Such vehicle shall not be any commercially licensed vehicle larger than a one (1) ton truck.
7. No traffic, including deliveries and/or pickups of goods, shall be generated by such use in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this Ordinance.

C. BED AND BREAKFAST HOMES

The following provisions shall apply to all bed & breakfast homes:

1. Food shall be offered only to overnight patrons of the bed & breakfast home. Food preparation shall comply with local and State health code requirements.
2. There shall be no changes in the exterior of the home.
3. There shall be no more than five (5) guest rooms for rent. Such establishment shall be in operation for not less than ten (10) nights in a twelve (12) month period and shall provide accommodations for no more than thirty (30) consecutive nights for a particular guest.
4. Parking shall consist of one (1) space per employee plus one (1) space per guest room, in addition to those spaces for the residential use. All parking shall be located in rear yards and shall be screened from adjoining land uses according to the screening requirements contained in this ordinance.
5. Each establishment shall be limited to the display of one (1) non-illuminated sign per street frontage, said sign to be attached flat against the wall of the establishment and limited to a size of no more than twelve (12) square feet. No show windows or other exterior display shall be permitted by the use occupying the premises to promote or advertise services retained or offered.
6. Establishment or operation of the use shall not change the character of the neighborhood.

7. All uses and operations shall be conducted within completely enclosed buildings. Accessory buildings and structures such as barns, sheds, and the like may not be used for guest rooms on a bed and breakfast property.
8. The bed and breakfast home must be owner occupied.
9. Sanitary facilities serving the use must be approved by the Rush County Health Department.
10. The establishment shall maintain an accurate, up-to-date guest register which shall be available at all times for inspection.
11. Parking lot illumination, if proposed, must not result in an illumination intensity of more than 0.1 foot-candles at any adjacent residential property boundary, or 0.5 foot-candles at any non-residential property boundary. Parking lot lighting must be of a down-directed variety, the standards for which may not exceed a height of eighteen (18) feet and must be of an architectural style compatible with the bed and breakfast home. A parking lot lighting plan must be submitted as part of the required application for review by the director.

D. ADULT ENTERTAINMENT FACILITIES

The following provisions shall apply to all adult entertainment facilities:

1. No adult entertainment use shall be located within a two-thousand (2,000) foot radius of any residentially zoned district or residential use, or other adult entertainment business.
2. Adult entertainment uses shall not be located within two-thousand (2,000) feet of schools whether public or private, religious institutions, parks and play fields, or other areas in which large numbers of minors eighteen (18) years or younger regularly congregate.
3. The distance between an adult entertainment business and any public or private school, religious institution, park, play field, a residentially zoned district, residential use, or other adult entertainment use is measured in a straight line without regard to intervening structures or objects, from the closest lot line of the adult entertainment business to the nearest lot line of the school, religious institution, park, play field, residentially zoned district, residential use, or other adult entertainment business.

E. RECREATIONAL VEHICLES

Within the city limits, one (1) boat with or without trailer, utility trailer or recreational vehicle may be stored no closer than twenty (20) feet to an adjacent properties side or

rear lot line on a hard surfaced, dustless pad. Such vehicles, parked or stored, shall not be connected to water, gas, or sanitary sewer facilities, and shall not be used for living or housekeeping purposes.

F. RECREATIONAL VEHICLE PARK

In any district in which a recreational vehicle park is permitted, the following requirements shall apply:

1. Recreational vehicle parks shall have direct access to a public highway or road with sufficient frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of recreational vehicles into and out of the parks.
2. Conditions of soil, groundwater level, drainage, geologic structure, and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor, noise, severe erosion, sudden flooding, or the possibility of subsidence.
3. The density of a park shall not exceed fifteen (15) recreational vehicle spaces per acre of gross site area.
4. The minimum area of a recreational vehicle park shall be five (5) acres.
5. Recreational vehicles shall be separated from each other and from other park .
6. All recreational vehicles and structures shall comply with the required minimum setback and yard provisions of this Ordinance. Where the boundary line of a recreational vehicle park coincides with that of a residential district other than along a thoroughfare or alley, a yard separation of at least twenty-five (25) feet shall be required.
7. At lease one centrally-located recreation area, equal in size to at least eight percent (8%) of the gross park area, shall be provided in each recreational vehicle park. Streets, parking areas, and park service facility areas shall not be included in computation for recreational areas.
8. Food stores, restaurants, sporting goods stores, Laundromats, dry-cleaning pickup stations, and similar convenience and service shops may be permitted in recreational vehicle parks containing fifty (50) or more spaces, provided that:
 - a. Such shops and the parking area required by their use shall not occupy more than ten percent (10%) of the total park area.
 - b. The shops shall be primarily for the use of park occupants.

- c. Such shops shall be so located and designed within the park so as to present no visible evidence of their commercial nature to persons outside the park.
9. Management offices and storage, playground and picnic equipment, sanitation and laundry facilities, informational signs, and other structures customarily incidental to a recreational vehicle park shall be permitted as accessory uses.

G. AMATEUR RADIO SUPPORT STRUCTURES

Amateur radio support structures shall be permitted as accessory uses provided they do not violate the requirements of this Ordinance. The structures shall be constructed and/or installed in accordance with all applicable requirements of the National Electric Code as well as the manufacturer's specifications. All structures must be properly grounded. The support structure shall be made of non-corrosive hardware. The installation of guy wires and support anchor structures may be permitted in the required setback areas. The Director may require submission of documentation to verify compliance with all applicable codes and requirements as well as any other information which may pertain to the installation of such structures. No amateur radio support structures shall exceed seventy-five (75) feet in height above average ground level.

H. COMMUNICATIONS FACILITIES

Express standards and criteria for considering special exception approval for communications facilities shall be as follows:

1. Proposed communications facilities shall be located only in the following zoning districts, but not in a Corridor Overlay District within such district: C-1, C-2, M-1, and M-2. Proposed new communications towers must gain special exception approval by the Rush County Board of Zoning Appeals. Proposed antenna additions to existing structures need not gain special exception approval; however, all other applicable requirements of this Section shall be imposed for such antenna additions.
2. Any applicant proposing a new communications tower shall demonstrate that efforts have been made to obtain permission to mount an antenna or antennae on an existing building, public utility transmission structure, or communications tower rather than erect a separate tower. The applicant shall contact, by certified mail, all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed site. If utilization of an existing structure is not an option, the applicant shall provide written proof to this effect which shows that one of the following situations exists:
 - a. The proposed equipment would exceed the structural capacity of the existing building, public utility transmission or storage structure, or communications tower, and reinforcement of the existing structure cannot be accomplished.

- b. The proposed equipment would cause RF (Radio Frequency) interference with other existing or proposed equipment for that existing structure and the interference cannot be prevented.
 - c. Existing buildings, public utility transmission structures, or communications towers do not have adequate space, access, or height to accommodate the proposed equipment.
 - d. Addition of the proposed equipment would result in NIER (Non-Ionizing Electromagnetic Radiation) levels which exceed adopted Federal or State emissions standards.
 - e. A reasonable business arrangement cannot be achieved.
- 3. The applicant shall submit evidence that the facility or tower, and its method of installation, has been designed to accommodate multiple antennae, in order to allow for future co-location, and must allow future co-location arrangements.
 - 4. The applicant shall demonstrate that it is licensed by the Federal Communications Commission (FCC) to operate a communications facility. At any time during the calendar year that an amendment to the FCC license is issued, a copy of the amended license shall be submitted to the Rush County Area Plan Commission within thirty (30) days of issuance.
 - 5. Proof shall be provided that the proposed communications facility complies with safety standards and electromagnetic field limits established by the FCC. In the event that the FCC imposes more stringent standards at a later date, those standards shall apply.
 - 6. Proof shall be provided that the communications facility has been reviewed, and has not been determined to be a hazard, by the Federal Aviation Administration (FAA). The communications tower shall meet all FAA regulations.
 - 7. The applicant shall submit evidence that the facility, tower, or an antenna addition to an existing tower or structure, and its method of installation, has been designed by a civil or structural engineer registered in the State of Indiana and is certified by that engineer to be structurally sound and able to withstand wind and other loads in accordance with applicable building codes.
 - 8. The owner of any communications facility shall be required to conduct periodic inspections of the facility to ensure structural integrity. Inspections shall be conducted by an engineer licensed by the State of Indiana. The cost of the inspection shall be borne by the tower owner. The result of the inspection shall be provided to the Rush County Area Plan Commission. Such inspections shall be required as follows:

Section 6-101-6. Regulations Applicable to Specific Uses

- a. Monopole towers – at least once every ten (10) years.
 - b. Self-supporting towers – at least once every five (5) years.
 - c. Guyed towers – at least once every three (3) years.
9. Adequate access by means of a public street or an access easement to a public street shall be provided to facilitate periodic visits by maintenance workers. Said access drive shall be composed of an all-weather, dust proof surface.
10. The distance between the base of the communications tower and any property line shall be at least equal the height of the tower. If the facility is erected on a leased parcel taken from a parent tract, this distance may be measured to the property line of the parent tract. In addition, self-supporting towers shall be sited no closer than one thousand (1,000) feet to any residence. An accessory structure erected in connection with the facility shall meet required setbacks for the district in which it is located.
11. The applicant shall demonstrate that the proposed height of the communications facility is the minimum height necessary to function effectively.
12. For communications facilities other than those added to existing structures, enclosure by a chain-link or similar fence at least six (6) feet in height shall be required. Said fence shall have a self-latching gate to limit accessibility to the general public.
13. All guy wires and all guyed towers shall be clearly marked so as to be visible at all times. All guy wires shall be a minimum of five (5) feet from any property line.
14. Landscaping shall be installed and maintained by the owner of any communications tower as necessary for proper screening of associated equipment storage or maintenance buildings. The Board of Zoning Appeals may determine the extent of screening during special exception approval.
15. All lighting, other than that required by the FAA, shall be shielded and reflected away from adjoining properties.
16. The facilities which are erected to maintain a communications facility may not include offices, long-term vehicle storage, other outdoor storage, broadcast studios, or other uses that are not needed to send or receive signals, unless such facilities are permitted uses in the zoning district.
17. Approval under this Section will automatically lapse if the communications facility is not used for (6) continuous months. In such case, all portions of the communications facility will be removed by the party responsible for erecting the facility, or the property owner, with costs of removal to be borne by that party.

SECTION 6-101-7. OFF-STREET PARKING REQUIREMENTS

- A. General Provisions
 - B. Plan Review
 - C. Regulations and Requirements
 - D. Schedule of Off-Street Parking & Requirements
 - E. Off-Street Loading Requirements
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A. GENERAL PROVISIONS

Off-street parking and loading provisions of this Section shall apply as follows:

1. For all buildings and structures erected and all uses of land established after the effective date of this Ordinance, accessory parking and loading facilities shall be provided as required by the regulations herein.
2. For any non-conforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, re-established, or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation provided, however, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Section for equivalent new uses.
3. When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities as required herein shall be provided for such increase in intensity or use.
4. Whenever the existing use of a building or structure is changed to a new use, parking or loading facilities shall be provided as required for such new use.
5. Single-family residential structures and uses shall be subject only to subsection C.2.a and subsection D of this Section, Schedule of Off-Street Parking Space Requirements.
6. Off-street parking facilities required herein shall not be used for the repair, dismantling, or wrecking of any vehicles, equipment or material.
7. Off Street parking and loading spaces shall be provided on the same lot as the use served except as otherwise provided in this Ordinance. Adequate area shall be provided to permit any maneuvering necessary to reach off-street parking and loading areas.
8. Off-street parking facilities in existence on the effective date of this Ordinance and located on the same lot as the building or use served shall not hereafter be reduced

below, or if already less than, shall not be further reduced below requirements for a similar new building or use under the provisions of this Ordinance.

B. PLAN REVIEW

Plans for any off-street parking lots, parking structures, or loading areas required under this Chapter shall be submitted to the Director for review and approval of applicable regulations. The plan shall show the following:

1. Total number of parking spaces of current, existing, and proposed areas;
2. Parking aisles;
3. Vehicle circulation;
4. Entrances and exits;
5. Sidewalks and pedestrian circulation;
6. Signage;
7. Lighting;
8. Storm water detention areas;
9. Landscaping islands;
10. Landscape and buffer areas with types of vegetation to be planted;
11. Other relevant information requested by the Director;
12. All features shall be dimensioned on the plan, and distances from property lines and structures shall be noted.

C. REGULATIONS AND REQUIREMENTS

1. Number of Off-Street Parking Spaces

- a. Except as otherwise noted in this Section, the number of off-street parking spaces for each new principal use shall be provided in accordance with subsection D of this Section.
- b. The parking lot requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation as determined by the Director.

Section 6-101-7 Off Street Parking Requirements

- c. For determining off-street parking and loading requirements, the sum of the gross horizontal areas of the floors of a building, or portion thereof, devoted to a specific use, shall be calculated. These areas shall include accessory storage areas located within selling space, such as counters, racks or closets; and any basement floor areas devoted to retailing activities, the production or processing of goods, or business or professional offices.
- d. When computing the number of parking spaces, any fraction shall be rounded up to the next highest number.
- e. A maximum of one-hundred thirty percent (130%) of the required number of parking spaces indicated in subsection D of this Section, Schedule of Off-Street Parking Requirements, may be provided for a particular use. If more spaces are desired, additional screening and landscaping will e required.
- f. In determining the number of parking spaces required for a business, industry, institution, or any other concern which encompasses a number of different, yet related activities, the Director may determine the total number of parking spaces required by adding the amount of spaces required for each specific activity as listed in subsection D of this Section.

2. Location of Parking Facilities

- a. The off-street parking areas required for residential buildings or uses shall be located on the same lot with the building or use served. In major residential subdivisions, the parking requirements for one- and two-family residential uses may not occupy more than fifty (50%) of the front yard.
- b. The required off-street parking spaces for any number of separate buildings, structures, or uses may be provided collectively on one lot, provided the total number of such spaces shall be not less than the sum of requirements for the various individual buildings, structures, or uses computed separately in accordance with this Ordinance.
- c. When two- or more uses are located within the same building or structure, off-street parking spaces equal in number to the sum of the separate requirements for each use shall be provided.
- d. Off-street parking areas for any business, industrial, or institutional uses shall not be located closer than thirty (30) feet to any lot or parcel located in a residential district or used for residential purposes.
- e. Parking spaces shall not be located within twenty (20) feet of the existing or proposed street right-of-way line. Increased setback distances from residential districts or uses are required, as indicated above.

3. Joint Parking Facilities

- a. Joint use of up to fifty percent (50%) of required parking areas may be permitted for two or more uses located on the same parcel or adjacent parcels, provided that the developer or owner can demonstrate to the Director that the uses will not overlap in hours of operation or in demand for shared spaces. This shall be guaranteed by a recorded written agreement from the owner or owners and all future owners, and shall be submitted to the Director.
- b. Shared parking areas shall be located not more than three-hundred (300) feet from the uses they are intended to serve and shall be connected to that use by a defined pedestrian walkway.
- c. Any subsequent change in land uses among the shared parking users shall require adequate parking as defined in subsection D of this Section.

4. Access

Driveway entrances and exits to parking lots shall be located a minimum of seventy (70) feet from the centerlines of intersecting streets in order to prevent hazards in the street and impeding the flow of traffic in the parking lot. Entrances shall be designed to allow vehicles entering the site to be stored to prevent backup on the adjacent street. Parking lot entrances and exits shall be consolidated when possible to limit the number of access points to the site. Curb cut permits must be obtained from the Rushville Street Department for any private connection to a city street. In instances where parking areas are one-hundred (100) feet or more wide, the parking lot entrance shall be a minimum of fifty (50) feet from the nearest existing access drive.

5. Parking Lot Design

- a. All off-street parking areas, driveways, loading areas, and maneuvering access thereto shall be surfaced with an all-weather, dustproof, impervious, hard-surface pavement, and provide drainage which shall meet County specifications as prescribed by the Rush County Subdivision Regulations. This surface shall be maintained in good condition and free of weeds, dirt, trash, and debris.
- b. All parking lots for commercial, manufacturing, institutional, and multi-family residential uses shall be paved with concrete, asphalt, or decorative concrete or asphalt pavers.
- c. Required parking spaces for all uses shall be a minimum width of ten (10) feet and a minimum length of eighteen (18) feet.
- d. The number and dimensions of handicapped parking spaces, which shall be located adjacent to the building served, are to be provided in conformance with requirements of the Americans with Disabilities Act, as follows:

Section 6-101-7 Off Street Parking Requirements

NUMBER OF PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES*
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total spaces
1,001 and over	20 plus 1 for each 100 over 1,000 spaces
*For every 8 Accessible Spaces, At Least One Must Be a Van Accessible Space	

Section 6-101-7 Off Street Parking Requirements

- e. All parking lots for commercial, manufacturing, institutional and multi-family residential uses shall be separated from adjoining non-paved surfaces with a continuous concrete curb at least six (6) inches in height. All parking lots shall be designed to provide adequate storm water drainage, including onsite detention capabilities. Curbed traffic islands are to be located on both ends of each parking row to facilitate safe traffic circulation within the parking lot.
- f. Required off-street parking spaces shall be so designed, arranged and regulated as to have individual spaces marked, be unobstructed and have access to an aisle or driveway so that any vehicle may be moved without moving another and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way.
- g. All parking areas shall be provided with circulation aisles of adequate dimension to ensure efficient internal circulation. The following standards shall apply:

Angle of Parking Relative to Circulation Aisle	Circulation Aisle Width	One- or Two-Way Circulation
0 degrees (parallel parking)	12 feet	One
30 degrees	12 feet	One
45 degrees	14 feet	One
60 degrees	18 feet	One
90 degrees (perpendicular parking)	24 feet	Two

Section 6-101-7 Off Street Parking Requirements

- h. All signage within parking areas shall conform to the standards within the Sign Regulation section of this Ordinance.
- i. Lighting within parking areas shall conform to Section 6-101-5.G.9 of this Ordinance.

D. SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

Accessory off-street parking spaces shall be provided as required for the following uses:

TYPES OF USE	SPACE REQUIREMENTS
Residential Uses	
Single-, two-, multi-family, and townhouse dwelling	2 spaces per dwelling unit
Boarding and lodging houses, fraternity, and sorority	1 space per bed
Home occupation	Maximum of 1 space per home occupation (in addition to the space requirements for the dwelling unit)
Commercial Uses	
Automobile, mobile home, truck, recreational vehicle, boat, or farm implement sales	1 space per 300 square feet of showroom floor area plus 1 space per 2,000 square feet of outdoor sales area
Auto service station or repair	1 space per pump plus 2 spaces per service bay
Car wash (self service or automatic)	2 spaces per bay
Convenience retail	1 space per 200 square feet
Greenhouse	1 space per 1,000 square feet
Hotel, motel, or bed-and-breakfast	1 space per room plus 1 space per employee on the largest shift; if conference space, then an additional 1 space per 200 square feet of indoor conference meeting space
Video Rental Store	1 space for every 300 square feet

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Movie Theater	1 space per 2 seats
Office (Professional, Government, and Business)	1 space per 300 square feet
Plant nursery	1 space per 300 square feet plus 1 space per acre
Rental agency	1 space per 300 square feet plus 1 space per 1,000 square feet of outdoor display area
Restaurant or fast food establishment	1 space per 3 seats plus 1 space per employee on the largest shift
Retail sales and services establishment, under 150,000 square feet	1 space per 200 square feet
Retail sales and services establishment, 150,000 square feet or greater	1 space per 300 square feet
Roadside sales	5 spaces per stand
Shopping center, under 150,000 square feet	1 space per 250 square feet
Shopping center, 150,000 square feet or greater	1 space per 300 square feet
Tavern or night club	1 space per 100 square feet
Wholesale sales	1 space per 600 square feet plus 1 space per employee on the largest shift
Schools, Churches, Health Care Facilities, and Other Institutions	
Religious Institutions	1 space per 4 seats in the main place of assembly plus 1 space per 300 square feet of classroom and meeting areas
Clinic or medical health center	1 space per 300 square feet
Day care or kindergarten	1 space per employee plus 1 space per 6 students
Elementary School	1 space per classroom, plus one per four seats in auditorium and/or gymnasium areas, plus one per 200 square feet of office area.
High School	1 space per 6 students, based on projected maximum classroom capacity, plus 1 per 4 seats in auditorium and/or gymnasium areas, plus 1 per 200 square feet of office area

Section 6-101-7 Off Street Parking Requirements

College or University	1 space per 4 students, based on projected maximum enrollment, plus 1 per 4 seats in auditorium and/or gymnasium areas, plus one per 200 square feet of office area.
Trade School, Business School, or Commuter College	1 space per 2 students, plus 1 per 200 square feet of office area.
Hospital	1 space per 2 beds plus 1 space per employee on the largest shift
Medical Office Building	1 space per 250 square feet
Nursing or Convalescent Facility	1 space per bed plus 1 space per employee on the largest shift
Penal or Correctional Institution	1 space per employee on the largest shift plus 1 space per 5 cells
Research, Medical, or Optical Laboratory	1 space per 300 square feet
Cultural and Entertainment Facilities	
Bowling Alley	5 spaces per lane
Carnival, Circus, or Fair	50 spaces per acre
Golf Course	6 spaces per hole
Meeting or Party Hall, Country Club, or Dance Hall	1 space per 200 square feet of indoor space; plus 1 space per 5,000 square feet of outdoor meeting area
Private Club or Lodge	1 space per 200 square feet plus 1 space per 2 seats in main place of assembly
Race Track	1 space per 4 seats or 6 feet of benches
Riding Stable (public)	1 space per stall
Stadium or Coliseum	1 space per 3 seats or 6 feet of benches
Tennis or Racquetball Facility	2 spaces per court plus 1 space per employee on the largest shift
Manufacturing, Warehouse, and Miscellaneous	
Cemetery	1 space per employee on the largest shift
Airport	1 space per employee on the largest shift, plus 1 space for every 1,000 square feet of hangar space or 1 space per outdoor aircraft storage space

Section 6-101-7 Off Street Parking Requirements

Manufacturing Establishment	1 space per 500 square feet
Mineral Extraction, Borrow Pit, Top Soil Removal or Storage	1 space per employee on the largest shift
Mortuary or Crematorium	1 space per 50 square feet of public area
Motor Bus or Railroad Passenger Station	1 space per 4 seats in waiting area
Post Office	1 space per official vehicle plus 1 space per employee on the largest shift plus 1 space per 200 square feet
Sanitary Landfill or Refuse Dump; Sewage, Trash, Garbage Disposal or Recycling Plant	1 space per employee on the largest shift plus 1 space per 4 acres
Self-Service Storage	1 space per 50 storage units plus 1 space per 300 square feet of office space
Truck Terminal	1 space per 1,000 square feet of covered building space
Warehouse or Storage Facility	1 space per 500 square feet of indoor storage plus 1 space per 1,500 square feet of outdoor storage
Water Treatment or Storage Facility	1 space per employee on the largest shift

E. OFF-STREET LOADING REQUIREMENTS

1. Every building which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, shall be required to have off-street loading zones in accordance with requirements of this Ordinance.
2. All required off-street loading facilities which serve a building, structure, or use of land erected, established, altered, enlarged, or intensified after the effective date of this Ordinance shall be located on the same lot as the building, structure, or use of land to be served.
3. All required off-street loading facilities shall be located according to front, side or rear yard requirements of the principal structure or use which it serves. Off-street loading facilities shall be located in a manner to prevent vehicle maneuvering in or blockage of rights-of-way.
4. Areas designated as off-street loading facilities may not be used to satisfy the parking requirements established in subsection D of this Section, Schedule of Off-Street Parking Requirements.
5. Each loading berth shall have minimum dimensions of not less than twelve (12) feet in width, sixty-five (65) feet in length and fourteen (14) feet vertical clearance, exclusive of access drives, aisles and maneuvering space. The Director may approve deviations from this requirement in cases where receipt or distribution of materials or merchandise is accomplished principally or entirely by vehicles comparatively smaller than those requiring a typical loading berth having the dimensions above.
6. All open off-street loading berths shall be improved with concrete pavement or comparable hard surface pavement.

Section 6-101-8. LANDSCAPING AND SCREENING REQUIREMENTS

- A. Application
 - B. Landscape Plan
 - C. Landscape Buffers Between Incompatible Uses
 - D. Parking Lot Landscaping
 - E. Area to be Landscaped
 - F. Landscaping Materials
 - G. Landscaping Installation and Maintenance
 - H. Fences and Walls
 - I. Performance and Maintenance Bonds
-

A. APPLICATION

This section of the Zoning Ordinance shall apply to all zoning districts, including overlay districts, and to all uses within those districts, with the exception of one- and two-family residential dwellings and property. Landscaping requirements shall be provided for an improved aesthetic quality of development, a visual barrier to partially or completely screen the view of structures or activities, or as an acoustic screen to aid in absorbing or deflecting noise.

B. LANDSCAPE PLAN

Where required by the zoning district regulations, a landscape plan must be submitted to the Director for approval prior to the issuance of a permit. This plan shall be drawn to scale and include the following information:

1. Property owner's name, address, and telephone number;
2. Existing and proposed structures;
3. Parking areas and driveways;
4. Walkways;
5. Location of existing trees or wooded areas (showing all trees at least eight (8) feet in overall height which have a minimum trunk diameter of two (2) inches at a height of twelve (12) inches above the ground) and a tree preservation plan delineating those existing trees or wooded areas that will be preserved;
6. Name, location, size at planting or placement, and number of all landscape materials, both man-made and natural;
7. Contractor's name, address, and telephone number, if contractor has been hired;

8. Any other information deemed necessary and relevant by the Director.

C. LANDSCAPE BUFFERS BETWEEN INCOMPATIBLE USES

1. General Restrictions

Landscape buffers shall be reserved for the planting of materials as required in this Section. No parking, sidewalks, accessory buildings, or other impervious surfaces shall be permitted, unless specifically authorized by this Ordinance. Landscape buffers may be located within required yards as established in the applicable district regulations. Where requirements for landscape buffers and perimeter parking lot landscaping overlap, the more restrictive requirement shall apply. Where natural topography or existing vegetation serves buffering purposes, the Director may, after inspection of the site and documentation of findings, allow the existing conditions to substitute for the requirements below.

2. Size and Improvements of Landscape Buffers

The size and composition of landscape buffers between various uses shall be as indicated below. Area within the buffer that is not planted with trees or shrubs shall be maintained in grass or other acceptable ground cover.

a. Business Uses

Where a commercial use abuts a residential district or use, a landscape buffer twenty (20) feet in width shall be provided. Within the buffer, the following requirements shall be provided along the entire length of the buffer:

- i. a tree screen, consisting of two staggered rows of 30% deciduous, 70% evergreen trees, with individual trees to be at least six (6) feet in height at planting and spaced no more than twenty (20) feet apart.
- ii. shrubs of a non-deciduous species, planted in staggered rows, with individual shrubs to be at least two (2) feet in height at planting and spaced no more than six (6) feet apart.

- b. Where an industrial use abuts a residential district or use, a landscape buffer thirty (30) feet in width shall be provided. Within the buffer, the following requirements shall be provided along the entire length of the buffer:

- i. a tree screen, consisting of two staggered rows of 30% deciduous, 70% evergreen trees, with individual trees to be at least eight (8) feet in height at planting and spaced no more than fifteen (15) feet apart.

- ii. shrubs of a non-deciduous species, planted in staggered rows, with individual shrubs to be at least two (2) feet in height at planting and spaced no more than six (6) feet apart.
- c. Multi-family or Mobile Home Developments

Where a multi-family or mobile home development abuts an R-1 or R-2 district or single-family use, a landscape buffer fifteen (15) feet in width shall be provided. Within the buffer, the following requirement shall be provided along the entire length of the buffer: a tree screen, consisting of two staggered rows of 30% deciduous, 70% evergreen trees, with individual trees to be at least six (6) feet in height at planting and spaced no more than fifteen (15) feet apart.

D. PARKING LOT LANDSCAPING

1. A six (6) foot wide landscaping strip shall be provided around the perimeter of the parking lot. The landscaping strip shall be planted with canopy trees, ornamental trees, and low shrubs. A minimum of one (1) canopy tree or ornamental tree per every forty (40) feet of perimeter shall be provided within the landscaping strip, along with a minimum of one (1) shrub per every four (4) feet.
2. A minimum of five percent (5%) of the gross vehicular area of the parking lot shall be landscaped. Perimeter parking lot landscaping shall not be included toward satisfying this requirement. One (1) shade tree shall be provided for every one hundred twenty (120) square feet of this five (5) percent interior landscaping area. Plant material within parking lots shall provide for safe visibility and maintain clear site lines between two (2) and eight (8) feet from the top of the curb. Such landscaping shall be provided in any combination of planting islands, planting peninsulas, and entrance ways, and shall be dispersed so as to define aisles and limit unbroken rows of parking to one hundred fifty (150) lineal feet.
3. No more than seventy percent (70%) of the length of a perimeter parking lot landscaping area in a rear or side yard may be utilized for placement of a berm or masonry wall. A berm shall not exceed a height of six (6) feet or a slope of thirty (30) degrees and shall be completely covered with shrubs, grass, or other living ground cover. A masonry wall shall not exceed a height of six (6) feet.

E. AREAS TO BE LANDSCAPED

1. Parking areas shall be screened according to subsection D of this Section, above.
2. Roadway right-of-ways shall be landscaped with grass and trees. No walls, fences, or signs shall be permitted in a right-of-way. Landscaping shall not impede visual clearance according to Section 6-101-5.F (Visual Clearance on Corner Lots) of this Ordinance.

3. All dumpsters shall be screened with an opaque wall or fence that is architecturally compatible with the primary facility on the property. Gates shall be provided if dumpsters are visible from the public right-of-way or an adjacent property.
4. Freestanding signs shall be landscaped according to the provisions of Section 6-101-9 (Signs) of this Ordinance.

F. LANDSCAPING MATERIALS

Landscaping materials selected shall be appropriate to local growing and climatic conditions. Wherever possible, existing trees should be conserved and integrated into the landscaping plan. Landscape materials may be used in any combination unless otherwise specified and include the following:

1. Living Plant Materials

- a. Minimum trunk diameter of deciduous canopy and ornamental trees shall be two and one-half (2.5) inches at a height twelve (12) inches above ground. The minimum height of evergreen trees shall be six (6) feet at planting;
 - b. Shrubs or hedges shall have a minimum height of twenty-four (24) inches at planting;
 - c. Grasses or ground cover;
 - d. Vines
- 2. Non-living materials, indicated below, shall be limited to planting beds and around individual plants and shall not exceed twenty-five percent (25%) of the total square footage of landscaped area.**
- a. Rocks, pebbles, or sand;
 - b. Mulch, including stone or bark;
 - c. Berms;
 - d. Lakes, ponds, streams, or fountains;
 - e. Ornamental fences or masonry walls, architecturally compatible with surrounding development.

G. LANDSCAPING INSTALLATION AND MAINTENANCE

1. Installation

All landscaping required by the approved landscaping plan shall be installed prior to the issuance of a building occupancy permit if said permit is issued during a planting season, or within six (6) months of the date on Occupancy Permit is issued during a non-planting season.

2. Maintenance

It shall be the responsibility of the owners and their agencies to ensure proper maintenance of the landscaping, in accordance with the standards set by this Ordinance and as indicated on the landscaping plan which has been approved by the County. This is to include, but not be limited to, replacement of dead plantings with identical varieties or a suitable substitute, and the maintenance of the area free of refuse and debris.

3. Changes after Approval

Any change or deviation to an approved landscaping plan shall require the approval of the Director. Changes that do not conform to this Section shall be subject to the procedures for a variance as established in this Ordinance.

Landscaping improvements made on a site that are not in conformance with the approved landscaping or site plan shall be considered a violation of this Section subject to the fines and penalties established herein, provided, however, that landscaping improvements may exceed the minimum requirements as shown on the approved plan.

4. Inspection

The Director, or a representative, shall have the authority to visit any lot to inspect the landscaping.

H. FENCES AND WALLS

Any fence or wall which is located in a required front yard, including both front yards of a corner lot, shall be subject to the traffic visibility requirements of Section 6-101-5.F (Visual Clearance on Corner Lots) of this Ordinance specifically or any other requirement of this Ordinance. For through-lots, a maximum fence height of seven (7) feet shall be allowed in the yard, opposite the front of the house, which abuts on a street from which no vehicular access to the lot is allowed.

I. PERFORMANCE AND MAINTENANCE BONDS

Where landscaping is required to be installed pursuant to this Section, a performance bond or other financial security shall be submitted in the amount of one hundred (100) percent of the cost of the required landscaping. Such financial security shall be posted with the Area Plan Commission as a prerequisite to obtaining permits for development of a site and shall be required for a period of one (1) year from the date of issuance of such permits. Upon completion of the landscaping improvements and inspection by the Department, the financial security shall be released. The Department shall require the posting of a maintenance bond or other financial security in the amount of five (5) percent of the total cost of landscaping improvements, or a minimum of five hundred (500) dollars, whichever is greater, to guarantee the replacement of landscaping material, if necessary, for a period of two (2) years from the date of release of the performance security.

Section 6-101-9. SIGNS

- A. Purpose
 - B. Permit Required
 - C. General Provisions
 - D. Maintenance
 - E. Nonconforming Signs
 - F. Exempt Signs
 - G. Prohibited Signs
 - H. Temporary Signs
 - I. Illumination of Signs
 - J. Sign Standards by Zoning District
 - K. Off-Premises Signs
-

A. PURPOSE

The use of signs to identify uses, advertise business and provide general orientation in Rushville is a recognized need and right of property owners within appropriately zoned districts. It is the purpose of this Section to provide a balanced system of signage to facilitate communication between people and their environment and to avoid visual clutter that is potentially harmful to traffic safety, property values, community appearance, and the economic vitality of Rushville.

B. PERMIT REQUIRED

1. Except as otherwise provided herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the limits of Rushville, or cause the same to be done without first obtaining a sign permit for each sign from the Area Plan Commission.
2. Application for permit shall be made to the Department on forms provided, and shall be accompanied by such information as may be required to assure compliance with the provisions contained within this Section, including:
 - a. Name and address of the property owner of the premises on which the sign is located or is to be located;
 - b. Name and address of the owner of the sign;
 - c. Clear and legible drawings with description showing the location of the sign which is the subject of the permit, and all other signs whose construction requires permits, when such signs are on the same premises;
 - d. Drawings showing dimensions, construction supports, sizes, electrical wiring and components, materials of the sign, method of attachment, and character of

structural members to which attachment is made. If required by the Director, engineering data shall be supplied on submitted plans and certified by a duly licensed engineer;

- e. Any individual or company seeking to erect, construct, alter, repair, improve, maintain, convert or manufacture any sign adjacent to or visible from any State or Federal roadway shall register, in writing, a statement that they have all necessary licenses and/or approvals from the other affected governmental agencies;
 - f. Consent from the property owner shall be supplied as part of the application documentation.
3. The following shall not be considered as creating a sign and therefore shall not be required to have a sign permit:
- a. The changing of advertising copy or message on an approved sign.
 - b. Painting, repainting, cleaning, or other normal maintenance and repair of a sign or sign structure, unless a structural change is involved.

C. GENERAL PROVISIONS

The following general provisions shall apply to all signs in all zoning districts:

- 1. No portion of any sign may be erected within ten (10) feet of a street right-of-way.
- 2. The first permanent sign on any property shall include within the sign area the street address number of the property. The number shall be discernible from the traveled portion of the adjacent right-of-way. The letters and numbers shall be a minimum of four (4) inches in height.
- 3. Permitted free-standing signs shall include the following types of signs:
 - a. Pole. A sign which is supported by one or more uprights in the ground, with the sign surface mounted at a specified height above ground level to the bottom of the sign.
 - b. Ground. Any sign, other than a pole sign, in which the entire bottom is in contact with or is closely associated with the ground and is independent of any other structure.
 - c. Monument. A ground sign that is supported by a base that is connected directly to the ground with a maximum height of four (4) feet.

4. Free-standing signs shall be no closer to the side property line than a distance equal to thirty-five (35) percent of the frontage of the property upon which said sign is to be located, but in no event shall such sign be closer than fifteen (15) feet to the side property line.
5. Free-standing signs shall be no higher than ten (10) feet tall, except as otherwise permitted in this Section.
6. No portion of any sign may be erected so as to obstruct sight lines along any right-of-way or so as to obstruct sight lines to traffic control devices, street name signs at intersections, directional signs, or signals and/or railroad grade crossings, and shall maintain required vision clearance requirements as stipulated by Section 6-101-5.F of this Ordinance.
7. A landscaping area equal to the total sign area shall be installed at the base of all free-standing signs, with the exception of billboards. A landscaping plan shall be submitted with each sign permit application for a free-standing sign, such landscaping plan to be approved by the Area Plan Commission.

D. MAINTENANCE

1. All signs shall be maintained in a good state of repair, including but not limited to, repair of defective parts, painting and cleaning. The replacement of the structural members of a non-conforming sign for the purpose of extending the life of such non-conforming sign, shall not constitute maintenance as defined in this Section, but shall be considered as new construction and must, therefore, satisfy all requirements of this Ordinance.
2. The owner of any property on which a sign is located and those responsible for maintenance of the sign shall be jointly responsible for the maintenance of the area in the vicinity of the sign and shall be required to keep this area mowed in accordance with City standards and maintained in a safe, clean and sanitary condition, free of noxious or offensive substances and rubbish.
3. When any sign or adjacent area is not maintained within the provisions of this Ordinance, or determined otherwise unsafe, the Director or authorized representative shall send written notice to both the owner of the property on which such sign is located and the sign owner. Notice shall direct the owners to remove, repair or alter the sign or to maintain the property in accordance with City standards. If said sign is not removed, replaced, or altered or the property not properly maintained within thirty (30) days, the Director, or authorized representative, shall cause the sign to be removed, repaired, or altered, or the property to be maintained at the expense of the property and/or sign owner in accordance with the procedures of this Ordinance. For temporary or portable signs, the Director, or authorized representative, shall provide a three (3) day

notice for removal of the sign. The representative may remove a sign immediately and without notice if, in his opinion, the condition or location of the sign is such as to present a threat to the safety of the public.

E. NON-CONFORMING SIGNS

Any sign lawfully established prior to the effective date of this Ordinance that does not conform to the regulations herein shall be deemed a non-conforming sign and may be continued except under the following provisions:

1. If there is an increase in the size of the sign face or an increase in the height of the sign.
2. If the sign is relocated from its original place of installation.
3. If there is a complete replacement of the sign.
4. If the sign is covered under a variance, granted by the Board of Zoning Appeals, which has expired.
5. If the sign is destroyed to an extent equal to or greater than fifty percent (50%) of its value.
6. If the sign is considered an obsolete sign as defined under subsection G, Prohibited Signs, of this Section.

F. EXEMPT SIGNS

The following incidental signs are exempt from other requirements of this Section, except for the noted requirements:

1. Business Identification Sign

An identification sign on or near a building entrance or service entrance to a business in a business, commercial, or industrial zone is permitted, provided such signs state only the street address number and name of the business or building. Such sign shall be mounted flush against the wall, and shall not exceed four (4) square feet.

2. Damaged Sign

A conforming sign erected under a legally obtained permit which is damaged or destroyed by wind, weather, or other accidental means beyond the control of the applicant may be replaced or restored to its original size, shape, and location (as prior to the accident) without obtaining an additional permit. Replacement of a

damaged or destroyed sign with a new sign of different size, shape, or location from the original sign shall require a permit.

3. Integral Signs

Names of building, date of erection, monumental citations, commemorative tablets, and the like, when carved into stones, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made on integral part of the structure.

4. Parking Signs

Signs for public and private parking shall be permitted. Such signs shall be subject to a three (3) foot setback from right-of-way, and shall not be used for advertising purposes. Signs shall be no higher than six (6) feet and no greater than six (6) square feet in area. Such signs shall be installed so as not to present a hazard to traffic entering or leaving the premises.

5. Private Traffic Directional Signs

Signs directing traffic movement onto or within a premise. Illumination of these signs shall be permitted in accordance with Section 6-101-5.H, Performance Standards. The leading edge of such signs shall be a minimum of three (3) feet from any curb or traffic movement aisle, the sign shall be no higher than three (3) feet, and no greater than six (6) square feet in area.

6. Public Signs

Signs of non-commercial nature and in public interest erected by, or on the order of, a public officer(s) in performance of his/her public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, signs directing the traveling public to public and quasi-public facilities, or signs on public buildings or structures and the like.

7. Name Plate

A nameplate which shall not exceed two (2) square feet in area is permitted for each dwelling unit of a single-family or row-structure. Such nameplate shall state nothing other than the name and/or address of the occupant. No other sign shall be allowed. This paragraph shall not be construed to prohibit each dwelling unit from also displaying a house numbering plate for identification.

8. Historical Markers

9. Window Signs

Signs located in or on windows do not require a permit as long as such signs are located on the inside of the building.

10. Accessory Signs

Matter appearing on gasoline pumps, newspaper vending boxes, automatic teller machines, and vending machines, or matter appearing on or adjacent to entry doors such as “Push”, “Pull”, “Open”, or “Closed” signs, or matter appearing on display windows or doors identifying hours of operation, credit cards accepted, and similar information.

G. PROHIBITED SIGNS

The following signs are prohibited. It shall be unlawful to erect and maintain:

1. Any sign which is not included under the types of signs permitted or exempted in this Section.
2. Any portable or moveable sign, except in compliance with the provisions of this Section.
3. Any sign that projects over or into a public right-of-way.
4. Off-premises signs, except as expressly permitted in this Section.
5. Flashing signs.
6. Pennants, propellers, pinwheels, streamers, balloons, and similar small objects except as temporary signs.
7. Signs imitating or resembling official traffic or government signs or signals.
8. Signs located within a public right-of-way, other than traffic or government signs or signals located permanently or temporarily for public safety.
9. Tacking, pasting or otherwise affixing of signs of a miscellaneous character, visible from a roadway, located on buildings, barns, sheds, trees, towers, utility poles, posts, fences, benches, trash containers, parking meters or other structures.
10. Business signs that advertise an activity, business, product, project, or service no longer conducted or available on the premises upon which the sign is located within three (3) months of the end of business activity.

11. Signs placed on parked vehicles or trailers where the apparent purpose is to advertise a product or to direct people to a business or activity located on the same or nearby property. This includes vehicles with a sole apparent purpose to advertise business. Motor vehicles with the primary purpose of the cartage of goods are exempt from this restriction.
12. Signs which bear or contain statements, words or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful or will offend public morals or decency.
13. Signs painted on, or attached to, any fence or wall which is not structurally a part of a building, except to identify a residence or residential structure by means of posting the name of the occupant or structure and the street address.
14. Signs which operate or employ any stereopticon or motion picture projection or media in conjunction with any advertisements, or signs which have visible moving parts or give the illusion of movement, except as permitted in the Section.
15. Signs which emit audible sound, odor, or visible matter.
16. Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal, or which bear the words “Stop”, “Go Slow”, “Caution”, “Danger”, “Warning”, or similar words, except as permitted in subsection F of this Section.
17. Signs which, by reason of their size, location, movement, content, coloring or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device, or the light of an emergency or road equipment vehicle, or which hide from view any traffic or roadway sign or signal or device.
18. Political campaign signs of any type displayed more than forty-five (45) days prior to the scheduled election, and more than seven (7) days after the election.

H. TEMPORARY SIGNS

Temporary signs shall be permitted at any location and shall be required to have a permit unless otherwise specified. The following conditions apply to temporary signs:

1. Portable Signs (including “a-frame” and “arrow” signs)

One (1) portable sign per lot may be permitted for a period not to exceed sixty (60) days per calendar year. Said sign is not exceed forty (40) square feet in area or six (6) feet in height.

2. Banners

One (1) banner per lot may be permitted for a period not to exceed sixty (60) days per calendar year. Said sign is not to exceed forty (40) square feet in area or six (6) feet in height.

3. Political Campaign Signs

Political campaign signs announcing the candidates seeking public political office shall be confined within private property and not within a public right-of-way. No permit shall be required. ~~Said signs shall be permitted no more than forty-five (45) days prior to the scheduled election and shall be removed within seven (7) days after election.~~ (strike through text deleted 12-19-06)

4. Garage Sale Signs

Signs advertising the sale of miscellaneous household items for the purpose of a residential “garage” or “yard” sale shall not exceed four (4) square feet in area. Such signs may be erected on the premises one (1) week in advance of the sale and shall be removed within forty-eight (48) hours after the sale. No permit shall be required.

5. Construction Signs

During the construction period, constructions signs which identify the owner, architect, engineer, contractor and other individual or firm involved with construction, but not including any advertisement of any product; and signs announcing the character of the building enterprise or the purpose of the building. Said signs shall be a maximum of thirty-two (32) square feet for each project. Said sign shall be set back at least ten (10) feet from a public right-of-way. The sign shall be confined to the site of construction and shall be removed within thirty (30) days after the end of construction. No permit shall be required.

6. Real Estate Signs

One real estate sign, advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed, shall not exceed four (4) square feet in residential districts and thirty-two (32) square feet in business or industrial districts. Such sign shall be removed within fourteen (14) days of the sale, rental or lease. Such signs shall be set back from the street right-of-way at least ten (10) feet. Signs shall reflect no advertising other than to indicate the party listing for sale, rental or lease. No permit shall be required.

7. Street Banners

Street banners advertising public events and only for locations designated by the Director, during and for fourteen (14) days prior and seven (7) days after the event. No permit shall be required.

8. Subdivision or Multi-Family Signs

One (1) temporary subdivision or multi-family project identity sign indicating only the name and/or address of the premises and/or the name of the management and builder(s). Such a sign shall not exceed thirty-two (32) square feet in area and shall be located at least ten (10) feet from the public right-of-way. The maximum approval period shall be twelve (12) months from the date the permit is issued. Such approval may be extended for another twelve (12) months or until the project is eighty-five (85) percent completed or is occupied, whichever occurs first.

9. Inflatable Signs

Inflatable signs shall not be permitted on residentially zoned or used properties, except for displays intended for celebratory events of short duration, as in the case of birthdays. Such signs may be displayed for no more than fourteen (14) days during a calendar year on any lot in a business or industrial district, limited to one (1) such sign per lot. Such sign shall not exceed the permitted building height by more than twenty (20) feet.

10. Produce Signs

One (1) temporary sign which advertises the sale of produce or crops grown on the premises shall be permitted, provided that the sign does not exceed thirty-two (32) square feet in the area and is placed at least ten (10) feet from the street of right-of-way. This provision does not include "arrow signs". No permit shall be required.

I. ILLUMINATION OF SIGNS

1. Sign illumination shall be designed so as not to cause glare which may result in traffic hazards or which may interfere with the customary use of nearby residence in accordance with Section 6-101-5.H, Performance Standard, of this Ordinance.
2. For signs which are externally illuminated, such lightning shall be mounted on top of the sign and directed downward towards the copy in order to prevent spillover onto surrounding uses and into the night sky.
3. In residential districts, only nameplates, bulletin boards used by churches or public buildings, and permanent, on-site subdivision identity signs may be illuminated. In non-residential districts, all signs may be illuminated provided they meet the other provisions established in this Ordinance.

4. Signs displaying electronically changing or animated messages are permitted, provided:
 - a. Such signs do not create a traffic hazard to vehicular traffic on thoroughfares along which the sign is oriented;
 - b. Such signs may not be placed closer than thirty-five (35) feet to a public right-of-way;
 - c. The area containing the changing or animated messages shall not exceed thirty (30) percent of the total sign area;
 - d. No more than one (1) such sign shall be permitted per lot.

J. SIGN STANDARDS BY ZONING DISTRICT

1. Residential

This section applies to the following zones districts: R-1, R-2, R-3 and R-4.

- a. For each duplex and/or multi-family building, one (1) nameplate per dwelling unit not to exceed two (2) square feet in area is permitted.
- b. One (1) free-standing sign for a church, school, municipal building or other public building, not exceeding thirty-two (32) square feet in area, and one (1) wall sign, not exceeding one and one-half (12) square feet in area for each lineal foot of building frontage shall be permitted; however, in no instance shall the total wall sign area exceed fifty (50) square feet.
- c. Signs listed under Exempt Signs and Temporary Signs are permitted; however, portable signs, including “a-frame” and “arrow” signs, are prohibited.
- d. One (1) free-standing identity sign for a subdivision or multi-family project is permitted. Such sign shall not exceed thirty-two (32) square feet in area. In the event there is more than one entrance or the subdivision or multi-family project fronts onto more than one road, additional signage may be permitted at the discretion of the Director.

2. Commercial and Manufacturing

This section shall apply to the following zone districts: C-1, C-2, M-1, and M-2.

- a. Free-Standing Building, not in an unenclosed shopping center or enclosed shopping mall, including free standing buildings located at unenclosed and enclosed shopping centers:

- i. One (1) free-standing sign shall be permitted for each lot. The sign shall not exceed thirty-two (32) square feet in area.

- ii. Wall sign

No specific limit on the number of the wall signs permitted, however, the total maximum sign area for all wall signs on a given building frontage shall be two (2) square feet in area for each lineal foot of building frontage. However, in no instance shall the total sign area for all signs for a single business exceed one hundred (100) square feet in area. A free standing building which is situated on more than one (1) street may have wall signs located on each exposed wall, per the size limitations above.

- iii. Projecting signs may be used instead of any wall or free-standing signs provided they do not project beyond the property line or public right-of-way line and maintain a clearance of ten (10) feet over pedestrian areas.

- b. Unenclosed Shopping Centers

- i. One (1) free-standing sign shall be permitted for the shopping center, and shall meet the following requirements:

- (A). Such sign shall have a maximum face area of two hundred (200) square feet.

- (B). Where a shopping center has in excess of six hundred (600) feet of road frontage, one (1) additional free-standing sign shall be permitted. The distance between signs shall be at least five hundred (500) feet.

- ii. Wall sign

No specific limit on the number of wall signs permitted per business within the unenclosed shopping center, however, the total maximum sign area for all wall signs for a single business shall be two (2) square feet in area for each lineal foot of building frontage. However, in no instance shall the sign area for all signs for a single business exceed one hundred (100) square feet in area.

- c. Enclosed Mall Shopping Centers

- i. One (1) free-standing sign shall be permitted for the shopping center, and shall meet the following requirements:

- (A). Such sign shall have a maximum face area of three hundred (300) square feet.
 - (B). Where a shopping center has in excess of six hundred (600) feet of frontage along any street or highway right-of-way, one (1) additional free-standing sign shall be permitted. The distance between signs shall be at least five hundred (500) feet.
 - ii. Wall signs shall be permitted on each wall facing the enclosed mall shopping center's parking lot. There is not a specific limit on the number of wall signs, however, the total maximum sign area for all wall signs shall be two (2) square feet for each linear foot of building frontage. However, in no instance shall the total sign area for all wall signs exceed four hundred (400) square feet in area for each wall.
- d. Business, Commercial and Industrial Parks
- i. One (1) free-standing sign shall be permitted for business, commercial or industrial parks, and shall meet the following requirements:
 - (A). Such sign shall have a maximum face area of three hundred (300) square feet.
 - (B). Where a business, commercial or industrial park has in excess of six hundred (600) feet of frontage along any street or highway right-of-way, one (1) additional free-standing sign shall be permitted. The distance between signs shall be at least five hundred (500) feet.
 - ii. Uses and free-standing establishments within a business, commercial or industrial park shall meet the sign regulations under Free Standing Buildings within this Section.

K. OFF-PREMISES SIGNS

Off-premises signs are not allowed within the city limits.

Section 6-101-10. NON-CONFORMING USES

- A. Purpose
 - B. Continuance and Alteration of Nonconforming Uses
 - C. Discontinuance or Abandonment
 - D. Nonconforming Lots of Record
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A. PURPOSE

Lawful existing uses which would be prohibited or restricted under the terms of this Ordinance, or future amendments, and which do not conform to the regulations of the district in which they are located, shall be subject to certain limitations. The regulations set forth below are intended to provide a means whereby nonconforming uses can be gradually eliminated and re-established in more suitable locations in the City.

B. CONTINUANCE AND ALTERATION OF NONCONFORMING USES

1. Expansion

If a lawful use of land, structure, or land and structure in combination exists on the effective date of adoption or amendment of this Ordinance that would not be permitted in the district under the terms of this Ordinance, that use may be continued pursuant to requirements listed herein and subject to the following provisions:

- a. No existing land or structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of land or structure to a use permitted in the district in which it is located.
- b. No nonconforming use in a floodway district shall be expanded or enlarged without a permit for construction in a floodway from the Department of Natural Resources.

2. Extension

Any nonconforming use may be extended throughout any parts of a building which were manifesting arranged or designed for such use, but shall not be expanded to occupy any land outside such building.

3. Change in Use

- a. A nonconforming use of a lot or structure may not be changed to another nonconforming use. Change of use for nonconforming uses shall be limited to

those uses permitted by right in the district in which the nonconforming lot or structure is located, or to those uses allowed by Special Exception. Once a nonconforming use is changed to a conforming use, it shall not thereafter be changed to a nonconforming use.

- b. Any land, structure, or land and structure in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such land or structure is located, and the nonconforming use may not thereafter be resumed.

4. Repair

A nonconforming parcel may be maintained, and a nonconforming structure may be repaired or maintained, provided, however, that no nonconforming parcel or structure may be altered in a way that increases its nonconformity, but any parcel, structure, or portion thereof, may be altered to decrease its nonconformity.

5. Damage, Destruction, or Razing

- a. Any nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before if such reconstruction is undertaken within eighteen (18) months of such casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty.
- b. In a FEMA Floodplain Area only, any nonconforming use which is damaged by flood, fire, explosion, act of God, or the public enemy may be restored to its original dimensions and conditions, provided the damage does not reduce the value of the buildings, excluding the value of the land, by more than forty (40) percent of its pre-damaged value.
- c. If a nonconforming structure is voluntarily razed by the property owner, or if a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

C. DISCONTINUANCE OR ABANDMENT

When a nonconforming use of land, structure, or land and structure in combination is discontinued or abandoned for twelve (12) consecutive months, the structure, land, or structure and land in combination shall not thereafter be used except in conformance with regulations of the district in which it is located.

D. NONCONFORMING LOTS OF RECORD

Any lot of record existing at the effective date of this Ordinance and at that time held in separate ownership different from ownership of adjoining lots may be used for the erection of a structure, even though its area and width are less than the minimum requirements of this Ordinance, as long as all other regulations contained in this Ordinance are met.